



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.08.2021
CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No. 2500 of 2021 and
C.M.P.No.14400 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation
Limited (V.P.M) Rangapuram,
Vellore District.

...Appellant

vs.

Minor.R. Arjun
Minor Rep by Guardian/Father Ramesh

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 30.03.2010 made in M.C.O.P.No. 190 of 2009 on the file of the Motor accident Claims Tribunal, Sub Judge, Gudiyatham.

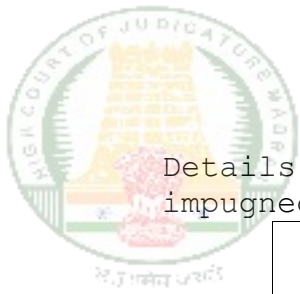
For Appellant : Mr.K.J.Sivakumar

J U D G M E N T

This Appeal has been filed by the Transport Corporation challenging the Award dated 30.03.2010 passed by the Motor Accident Claims Tribunal, Sub Judge, Gudiyatham in M.C.O.P.No.190 of 2009, directing the Appellant/Transport Corporation to pay the Claimant a sum of Rs.4,06,000/- as compensation for the injuries sustained in an accident which occurred on 18.04.2009 involving the bus owned by the appellant/Transport Corporation.

2. Before the Tribunal, the Respondent/Claimant, who is a minor represented by his father has claimed a sum of Rs. 20,00,000/- as compensation for the injuries sustained by him. In support of his claim, on the side of the Respondent/Claimant PW1 to PW3 were examined and Exs.P1 to P11 were marked before the Tribunal. On the side of the Appellant, RW1 was examined and no exhibits were marked.

3. On consideration of the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.4,06,000/- as compensation to the Respondent/Claimant.



Details of the compensation awarded by the Tribunal under the impugned Award, are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Pain and sufferings	60,000.0
Disability	1,20,000
Nutrition charges	50,000.0
Loss of future amenities	50,000.0
Maintenance of Minor	25,000.0
Transportation charges	29,480.0
Medical charges	71,326.0
Total	Rs.4,05,806/-
Rounded off	Rs.4,06,000/-

4.Heard the learned counsel for the parties and perused the material documents available on record.

5.The Appellant has challenged the impugned award on the ground that the Claims Tribunal has awarded a sum of Rs.1,20,000/- towards loss of disability, Rs.60,000/- towards Pain and suffering and a sum of Rs.50,000/- towards Loss of Future amenities, which are on the higher side and the same needs to be reduced.

6.Insofar as the first contention raised by the Appellant is concerned, the Claims Tribunal, on considering the evidence of P.W.3-Doctor, Ex.P2-Wound certificate , Ex.P9- Disability Certificate has awarded sum of Rs.1,20,000/- towards Disability which is not on the higher side.

7.The Hon'ble Supreme Court in the Case of Master Mallikarjun Vs Divisional Manager reported in 2013 2 TANMAC 338 has observed as follows:

"8.....The main elements of damage in the case of child victims are the pain, shock, frustration, deprivation of ordinary pleasure and enjoyment associated with healthy and mobile limbs. The compensation awarded should enable the child to acquire something or to develop a lifestyle which will offset to some extent the inconvenience or discomfort arising out



WEB COPY

of the disability. Appropriate compensation for disability should take care of all the non-pecuniary damages. In other words, apart from this head, there shall only be the claim for the actual expenditure for treatment, attendant, transportation, etc."

8. In view of the aforesaid Judgment, this Court is of the view that since the injured is a minor, who sustained grievous injury, the compensation awarded by the Tribunal towards Pain and Sufferings and Loss of Future Amenities, cannot be said to be on the higher side.

9. The Claims Tribunal considering the oral and documentary evidence adduced before it and also by considering the nature of injuries, period of treatment undergone by the injured has rightly awarded a sum of Rs.4,06,000/-, which cannot be considered to be excessive, as alleged by the Appellant/Transport Corporation. For the foregoing reasons, this Court does not find any merit in this Appeal and accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

10. The Appellant/Transport Corporation is directed to deposit the entire amount awarded by the Tribunal together with interest at 6% per annum from the date of the Claim Petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P.No.190 of 2009 on the file of the Motor Accidents Claims Tribunal, Sub Judge, Gudiyatham, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, since the claimant is a Minor, the compensation amount shall be deposited in any one of the Nationalised Banks till the minor attains majority and the father of the minor is permitted to withdraw the accrued interest once in three months.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

(arr)/(shk)



To:

1.The Motor accident Claims Tribunal,
Sub Judge, Gudiyatham,

2.The Section Officer,
V.R. Section,
High Court of Madras,
Chennai 600 104.

C.M.A. No.2500 of 2021

JPL (CO)
GN (06/12/2021)