



WEB COPY

C.M.A.(MD)No.836 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Reserved On : 29.07.2021

Delivered On : 04.08.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.M.A. (MD) No.836 of 2016

and

C.M.P. (MD) No.7903 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Door No.2, Trivandrum Road, Vannarpettai,
Tirunelveli.

..Appellant/ Respondent

Vs.

Minor.Boothathar @ Balaji
(The Minor Respondent represented by
his father and guardian Rajeswaran)

.. Respondent/ Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the award and decree made in M.C.O.P.No.891 of 2013 dated 11.04.2014 on the file of the Motor Accident Claims Tribunal/Special Sub Court, Tirunelveli.

For Appellant	: Mr.P.Prabhakaran
For Respondent	: Mr.Sasi Kumar.v

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award passed in M.C.O.P.No.891 of 2013 dated 11.04.2014, on the file of the Motor Accidents Claims Tribunal/Special Sub Court, Tirunelveli.

2.The appellant herein is the respondent and the respondent herein is the claimant in the claim petition. The appellant has filed a claim petition in M.C.O.P.No.891 of 2013, claiming compensation for the injuries sustained by the claimant, in an accident that took place on 02.08.2013. The Tribunal has awarded a sum of Rs.10,55,450/- (Rupees Ten Lakhs Fifty Five Thousand Four Hundred and Fifty only) as compensation. Against which, the appellant has preferred this appeal.

<https://hcservices.ecourts.gov.in/hcservices> substance of the claim petition in M.C.O.P.No.891



of 2013 is as follows:

On 02.08.2013, at about 08.30 p.m., the claimant was travelling in a Government Bus bearing registration No.TN-72-N-1017. When the bus was nearing Sindhupondurai Subramanian Hospital, the driver of the bus drove the bus in a rash and negligent manner without noticing the speed brake. Due to the impact, the claimant fell down from the bus and he sustained injuries and fracture in the hip bone and his urinary tract was affected and the claimant claimed a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) as compensation.

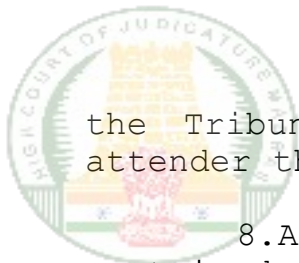
4.The brief substance of the counter filed by the respondent therein is as follows:

The claimant has to prove his age, income and profession. There is no possibility of the vehicle to be driven in a rash and negligent manner, when crossing the speed brake. The claimant travelled in the foot board. Only due to the negligence of the claimant, the claimant fell down and he invited the accident. The claim is excessive.

5.On the side of the petitioner therein, three witnesses were examined and 11 documents were marked. On the side of the respondent therein, one witness was examined and no document was marked. After trial, the Tribunal has awarded a sum of Rs.10,55,450/- (Rupees Ten Lakhs Fifty Five Thousand Four Hundred and Fifty only) as compensation to be paid by the appellant. Against which, the appellant has preferred this Civil Miscellaneous Appeal.

6.On the side of the appellant, it is stated that the injured is a minor boy and that the age of the injured at the time of accident is 12 years. He travelled in the foot board and he invited the accident. Atleast contributory negligence has to be fixed on the injured. The Doctor who gave treatment to the claimant was not examined. The Doctor who gave evidence, has fixed the disability as 90%, which is excessive. The Tribunal awarded a sum of Rs.5,00,000/- (Rupees Five Lakhs only) for the disability, which is excessive. The Tribunal awarded a sum of Rs.2,00,000/- (Rupees Two Lakhs only) towards loss of marriage prospects and Rs.1,20,000/- (Rupees One Lakh and Twenty Thousand only) towards future medical expenses. There was no evidence for loss of marriage prospects and prayed the award amount to be reduced. On the side of the appellant, it is stated that the Tribunal has fixed interest at 9%, which is excessive and prayed the same to be reduced.

7.On the side of the respondent, it is stated that due to accident, the pelvic bone was fractured and the urinary tract was affected and the claimant become impotent because of which, the Tribunal has fixed compensation towards loss of marriage prospects. The claimant was not able to work or urinate in a normal manner. A rubber tube was fixed for discharging of urine. That is the reason, the Tribunal has awarded amount for future medical expenses. In fact



the Tribunal has to enhance the award considering the need of attender throughout his life.

8.A perusal of the records reveals that the claimant sustained grievous injuries and his pelvic bone was fractured and urinary tract was affected. The award fixed by the Tribunal for the disability is reasonable. Since the claimant has pelvic bone fracture leading to impotency, the amount fixed by the Tribunal towards loss of marriage prospects and for future medical expenses is reasonable.

9.The Tribunal has fixed 9% interest for the compensation amount, which is to be reduced. Hence, it is decided that the claimant is entitled for 7.5% rate of interest for the compensation amount.

10.In the result, this Civil Miscellenaous Appeal is partly allowed. The respondent is entitled to a sum of Rs.10,55,450/- (Rupees Ten Lakhs Fifty Five Thousand Four Hundred and Fifty only) as compensation with interest at the rate of 7.5% from the date of the claim petition till the date of realization.

11.The appellant is directed to deposit Rs.10,55,450/- (Rupees Ten Lakhs Fifty Five Thousand Four Hundred and Fifty only) with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. The Tribunal is directed to deposit the award amount of the minor claimant in any one of the Nationalised Banks, in a Fixed Deposit scheme, till they attain majority. Rajeswaran, the father and guardian of the minor claimant, is permitted to withdraw the accrued interest once in three months directly from the bank, only for the welfare of minor. Excess amount, if any deposited shall be refunded to the appellant. The respondent is not entitled for interest for the default period, if there is any. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MRN

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

1.The Motor Accidents Claims Tribunal, Special Sub Judge,
Tirunelveli.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.V.SASI KUMAR, Advocate (SR-25203[F] dated 04/08/2021)

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-25195[F] dated
04/08/2021)

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04.08.2021

RD(17.08.2021) 4P 6C