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CMA.No.495 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2022

CORAM:

THE HONOURABLE MS. JUSTICE P.T.ASHA

CMA.No.495 of 2022

and

CMP No.3642 of 2022

The Managing Director,
M/s. Tamil Nadu State Transport Corporation
Head Office No.12, Ramakrishna Road
Salem 636 007

...Appellant

vs.

Minor Manoj, S/o. Satheesh
(Minor rep by his guardian/Father
Satheesh, S/o. Perumal

..Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the order dated 18.08.2021 made in M.C.O.P. No.1005 of 2019 on the file of the Motor Accident Claims Tribunal, Special Sub Judge I, Salem.

For Appellant : Mr.D. Venkatachalam

For Respondent : Respondent name printed



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JUDGMENT

WEB COPY This Civil Miscellaneous Appeal has been filed by the Transport Corporation challenging the award passed in M.C.O.P. No.1005 of 2019 by the learned Special Subordinate Judge I, Motor Accident Claims Tribunal, Salem, both on the ground of negligence as well as quantum.

2. The facts in brief are as follows:-

2.1. The respondent/claimant, who is just aged about 15 years and studying in 9th standard had driven a motor cycle bearing Registration No. TN 30BW 0457 on 01.02.2019 on Karuppur-Vellalapatti road, when a bus belonging to the appellant corporation which proceeded in the same direction had hit the two wheeler from behind , which resulted in the accident causing injuries to the minor. He was immediately taken to the Neuro Foundation Hospital and given treatment for 10 days as an inpatient. The respondent/claimant had claimed a total compensation of Rs.20,00,000/- for the injuries sustained by him.

2.2. The transport corporation had taken a defence that the accident would not have happened if the petitioner who is a minor had not driven the vehicle. They had contended that it is the minor petitioner who had



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driven the vehicle in a rash and negligent manner on the main road, which resulted in the accident.

2.3. The Tribunal below, held the negligence to be both on the driver of the transport corporation as well as the minor and apportioned the negligence as 90% on the transport corporation and 10% on the respondent/claimant and awarded a sum of Rs.2,56,586/- to the claimant after deducting 10% towards contributory negligence. Aggrieved by the same, the appellant/respondent is before this Court.

3. The respondent/claimant though served both through Court as well as privately, has not chosen to appear before this Court.

4. Heard Mr.D. Venkatachalam, learned counsel appearing on behalf of the appellant transport corporation.

5. Considering the fact that the minor who is just aged about 15 years has chosen to ride the motor cycle on the main road, where traffic is heavy, 10% negligence mulcted on the respondent/claimant has to be definitely enhanced to 25% since the minor is an inexperienced driver.



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He has not only put himself to danger but also the others using the main road where the flow of traffic is high. Therefore, the apportionment of negligence would be 25% on the claimant and 75% on the Insurance Company. However, with reference to the quantum, the same is in order and therefore, does not require any revision.

6. In the result, this Civil Miscellaneous Appeal is partly allowed.

The compensation of Rs.2,56,586/- awarded by the Tribunal is hereby reduced to Rs.2,13,822/- (Rupees two lakhs thirteen thousand eight hundred and twenty two only) together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant/Transport Corporation is directed to deposit the modified award amount to the credit of M.C.O.P. No.1005 of 2019 on the file of the learned Special Subordinate Judge I, Motor Accident Claims Tribunal, Salem, along with interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. The award amount shall be deposited in any one of the nationalized bank till the claimant attains majority and the guardian and father of the claimant shall be permitted to withdraw quarterly interest from the said amount. In other respects, the Award of



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the Tribunal is hereby confirmed. The appellant/Transport Corporation is permitted to withdraw the excess amount lying in the deposit to the credit of M.C.O.P. No.1005 of 2019, if the entire award amount has already been deposited by them. There shall be no order as to costs in the present appeal. Consequently, connected miscellaneous petition is closed.

24.06.2022

bga

Index : Yes/No

Speaking / Non-speaking order

To,

The Special Subordinate Judge I,
Motor Accident Claims Tribunal, Salem.



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P.T.ASHA, J.

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