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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A.No.3176 of 2021

and

C.M.P.No.18003 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Limited,
Bharathipuram,
Dharmapuri Taluk - 636 705.

... Appellant

Vs

Minor Lokesh
[Rep by next friend and natural
guardian his father Sivanantham]

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 05.09.2018 made in MCOP.No.546 of 2015 on the file of the Motor Accident Claims Tribunal, Special Sub-Court, Dharmapuri.

For Appellant : Mr.D.Raghu

For Respondent : Mr.P.Sethu
for Mr.M.Selvam

J U D G M E N T

The Transport Corporation has come up with this appeal challenging the award of a sum of Rs.2,03,050/- for the injuries suffered by the minor Lokesh aged about 4 years in the motor accident that occurred on 26.01.2015.

2. The claimant sought for a compensation of Rs.10,00,000/- contending that he suffered injuries in the accident that occurred due to the rash and negligent driving of the driver of the bus belonging to the appellant Corporation bearing Reg.No.TN-29-N-2154. It was also claimed that the child



was studying in UKG in Vijay Vidhayalaya Matriculation Higher Secondary School at Dharmapuri and was a bright child. Because of the accident his future has been affected.

3. The Corporation resisted the claim contending that the accident occurred as the child crossed the road unexpectedly and the driver of the bus, despite his efforts, could not stop the bus. It was also claimed that the First Information Report was filed against the driver of the bus on the basis of wrong information.

4. Before the Tribunal the father of the claimant Sivanantham was examined as PW1 and Ex.P1 to Ex.P10 were marked. No evidence was let in on the side of the Corporation.

5. The learned Tribunal upon consideration of the evidence and relying upon the First Information Report marked as Ex.A1 concluded that the accident was caused due to the rash and negligent driving of the driver of the bus. The non-examination of the driver or the conductor of the bus was also taken note of by the Tribunal. The Tribunal assessed the permanent disability caused because of the accident at 25% and granted a sum of Rs.75,000/- at Rs.3,000/- per percentage. A sum of Rs.25,000/- was granted towards pain and sufferings, apart from granting a sum of Rs.83,050/- for medical and transportation expenses, a sum of Rs.10,000/- for attender charges and a sum of Rs.10,000/- for extra nourishment.

6. Mr.D.Raghu, learned counsel appearing for the appellant would vehemently contend that the accident occurred due to the negligence of the claimant who crossed the road suddenly.

7. Unfortunately for the counsel for the appellant, the Corporation had not let in any evidence. If the Corporation wants to avoid liability on the ground of negligence, it ought to have examined the driver or conductor of the bus to demonstrate that there was no negligence on their part. Having failed to do so, the Corporation cannot now in the appeal contend that the accident occurred due to the negligence of the injured. The First Information Report has also been filed against the driver of the bus.

8. Therefore, I do not think that the Tribunal could be faulted for coming to the conclusion that the accident occurred due to the negligence of the driver of the bus. Even on the quantum, the award under various heads is reasonable and does



not call for any interference by this Court.

9. Hence, the appeal fails and it is dismissed. The award dated 05.09.2018 made in MCOP.No.546 of 2015 on the file of the Motor Accident Claims Tribunal, Special Sub-Court, Dharmapuri is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dsa

To

The Special Sub-Judge,
Motor Accident Claims Tribunal,
Dharmapuri.

Copy To

The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.M.Selvam, Advocate SR.No.3731
+1cc to Mr.D.Raghu, Advocate SR.No.3725

CMA No.3176 of 2021

PP(CO)
GN(10/03/2022)