

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.891 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation,
Thirumayam Road,
Pudukkottai.

...Appellant/Respondent

Vs.

Minor Murugesan,
Rep.through his mother and Natural Guardian,
Chinnaathal, South Ponnaviduthi Village,
Karambakudi Taluk,
Pudukkottai District.

...Respondent/claimant

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the impugned award passed in M.C.O.P.No. 167 of 2013 dated 30.12.2020 on the file of the MACT (Chief Judicial Magistrate Court), Pudukkottai.

For Appellant : Mr.P.M.Vishnuvarthanan

JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging the award of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Pudukkottai in M.C.O.P.No.167 of 2013, dated 30.12.2020.

2.For the sake of convenience, the parties are referred to herein, as per their rank before the Trial Court.

3.The brief facts, leading to the filing of this Civil Miscellaneous Appeal, are as follows:-

(i)the injured claimant is the minor. On 21.06.2010 at about 04.00 p.m., when the injured was riding his bicycle in the Karambakudi main road for purchasing some notebooks, the bus belonging to the respondent transport corporation bearing Registration No.TN-55-N-0237 driven in a rash and negligent manner dashed against the bicycle, as a result, the claimant sustained injuries and suffered fractures on the left side hip and also at his private part. He was immediately admitted in the hospital. He had taken treatment from 21.06.2010 to 19.07.2010 as inpatient. Hence, the compensation of Rs.9,00,000/- was claimed.

(ii) The respondent before the tribunal took a stand that the driver of the bus had driven the bus in a cautious manner and only the claimant came in a bicycle carelessly and dashed against the bus. He also denied the medical expenses spent by the claimant.

4. Before the Tribunal, on the side of the claimants, P.W.1 was examined and Ex.P1 to Ex.P11 were marked. On the side of the respondent R.W.1 was examined and Ex.R1 was marked. The disability certificate was marked as Ex.C1.

5.The tribunal after considering the oral and documentary evidence and the medical bills spent towards the treatment, has awarded a sum of Rs.5,97,715/-. Challenging the same, the present appeal has been filed by the transport corporation.

6.The learned counsel for the appellant submitted that the quantum fixed by the Tribunal is on the higher side and the same has to be set aside.

7.Based on the entire evidence on record, now the point arises for consideration in this appeal is:

(1) Whether the compensation awarded by the Tribunal is without any basis and on the higher side?

8.Though the aspect of negligence on the part of the driver of the bus was denied by the appellant transport corporation before the Tribunal, no

submission whatsoever has been made on the said fact before this Court. On perusal of the award passed by the Tribunal, it is clear that the Tribunal after considering the entire evidence adduced on both sides, came to the conclusion that the driver of the bus was negligent in driving the bus. The said finding does not require any interference by this Court.

9.The Tribunal took note of the medical Certificate under Ex.P4, discharge summary Ex.P7 and other medical records and came to the conclusion that the minor had suffered grievous injuries. The disability certificate, Ex.C1 shows that the claimant suffered 5% disability. Hence, the Tribunal considering all the medical records of the claimant had awarded a sum of Rs.1,25,000/- towards pain and sufferings; Rs.3,57,714/- towards medical expenses; Rs.15,000/- towards disability; Rs.25,000/- towards nutritious food; Rs.25,000/- towards transportation and Rs.50,000/- for future medical expenses. In fine, the compensation of Rs.5,97,715/- was awarded by the Tribunal.

10.On perusal of the findings rendered by the Tribunal and the medical bills relied upon by the claimants before the Tribunal, this Court is of the view that the compensation awarded by the Tribunal is just and reasonable and the same

does not warrant any interference. Accordingly, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal is confirmed.

11.The appellant is directed to deposit the entire compensation amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.167 of 2013, on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Pudukottai within a period of one month from the date of receipt of a copy of this judgment, less the amount, if any already deposited. On such deposit, the minor claimant is at liberty to withdraw the award amount with accrued interest on proof of attaining majority. No costs.

16.03.2023

NCC : Yes/No
Index : Yes/No
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N.SATHISH KUMAR, J.

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To

- 1.The Motor Accident Claims Tribunal/
Chief Judicial Magistrate Court, Pudukottai.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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