



C.M.A.(MD) No.1341 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2024

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THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1341 of 2012

and

M.P.(MD)No.2 of 2012

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Division,
Pudukottai & Pudukottai Town,
Pudukottai.

... Appellant

Vs.

Minor Bhakyalakshmi
represented by her mother and next friend
Lakshmi.

... Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 18.03.2010 passed in M.C.O.P.No.16 of 2009 on the file of the learned Motor Accidents Claims Tribunal/Sub Court, Devakottai.

For Appellant : Mr.M.Prakash

For Respondent : No appearance



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4. Before the Tribunal, the respondent/claimant examined two witnesses as P.W.1 and P.W.2 and marked Exs.P1 to P11. The appellant/Transport Corporation examined R.W.1 and did not mark any document.

5. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place only due to the negligence of the driver of the offending bus belonging to the appellant/Transport Corporation and awarded the compensation at Rs.1,82,800/- payable by the appellant to the respondent herein.

6. The learned counsel for the appellant/Transport Corporation submitted that the Tribunal had not considered the evidence of R.W.1-driver of the bus in proper prospective and ought to have fixed the contributory negligence on the respondent/claimant for crossing the road suddenly and that the compensation awarded by the Tribunal under all the heads is excessive and prayed for reduction of the compensation.

7. Though notice was issued to the sole respondent/claimant, it appears that notice has not been served and the appellant/Transport



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Corporation has also not produced the proof of service of private notice sent to the respondent. In view of the order, which this Court proposes to pass, notice may not be necessary.

8. The questions involved in the instant appeal are as follows:

'a. Whether the Tribunal was right in holding the appellant is liable to pay the compensation?

b. Whether the quantum of compensation awarded by the Tribunal is just and reasonable?'

9. As regards the first question, it is seen that the respondent/claimant had examined the Doctor as P.W.2 to prove the nature of the accident and also the injuries sustained by the claimant. The respondent/claimant has also marked Ex.P1-First Information Report and Ex.P4-the Final Report filed by the Police against the driver of the bus. It would show that the accident took place only due to the rash and negligent act of the driver of the bus. It was also admitted by R.W.1-the driver of the bus that the case was registered against him. Further, the evidence of P.W.1 does not inspire confidence. In the light of the evidence of P.W.1, the other evidence on record and the fact that R.W.1's evidence cannot be believed, this Court is of the view that the finding of the



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Tribunal that the driver of the bus was guilty of rash and negligent driving, is justified. Therefore, this Court is of the view that the appellant/Transport Corporation is liable to pay the compensation.

10. As regards the quantum of compensation, this Court finds that the respondent had examined P.W.2-Doctor and produced the medical records, namely, Ex.P2-Wound Certificate, Ex.P7-Medical Bills and Ex.P9-X-ray, to show the injuries were sustained by the claimant.

11. The Tribunal had found that the respondent/claimant had sustained 30% permanent disability and had awarded Rs.1,500/- for a percentage of disability, which is justified. The Tribunal had awarded at Rs.25,000/- towards mental shock and agony, Rs.25,000/- towards attendants, Rs.40,000/- towards pain and sufferings, Rs.25,000/- towards future expenses. The total compensation awarded by the Tribunal at Rs. 1,82,800/- is justified under the above heads and therefore, this Court sees no reason to interfere with the award of the Tribunal.

12. The appellant/Transport Corporation is directed to deposit



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Rs.1,82,800/- (Rupees One Lakh Eighty Two Thousand and Eight Hundred only) together with interest at the rate of 6% per annum from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order.

13. On such deposit, the respondent/claimant is entitled to withdraw the aforesaid amount together with proportionate interest and costs, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal. The respondent/claimant is directed to pay the necessary Court Fee, if any, on the award amount.

14. The respondent/claimant was a minor, when the claim petition was filed in the year 2009. She would have attained the age of majority now. Hence, she is directed to file an appropriate application for recording her majority and to withdraw her share.

In the result, this Civil Miscellaneous Appeal is dismissed. No



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costs. Consequently, connected miscellaneous petition is closed.

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20.08.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd

To:

1.The Motor Accidents Claims Tribunal/Sub Court,
Devakottai.

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



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SUNDER MOHAN, J.

apd

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