

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2015

CORAM

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

C.M.A.No.260 of 2002

Raja Rajeswari (Minor)
Rep. by father and
next friend R.Murugesan. ... Appellant/Petitioner

Vs.

Metropolitan Transport Corporation Limited,
Rep. by its Managing Director,
Pallavan Salai, Chennai - 2. ... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act-1988 against the judgment and decree dated 22.06.2001 made in MACT OP No.3446/1997 on the file of the Motor Accidents Claims Tribunal (6th Judge, Small Causes Court), Chennai.

For Appellant : M/s.Ramya V. Rao for
M/s.S.Rathinamani

For Respondent : M/s.S.V.Vasanth Kumar

JUDGMENT

The claimant/injured has filed the present appeal for enhancement of the compensation of Rs.1,03,760/- against the total claim of Rs.4,01,000/-. The injured was, on the date of the accident, 16 years and she was irking her livelihood as flower vendor and was earning Rs.1,500/- per month. She was in the accident sustained head injuries and aberrations and she was treated in the Government Rajaji Hospital, Chennai for nearly one week and according to the petitioner she has been continuously under treatment. The petitioner has in her claim petition claimed total compensation of Rs.4,01,000/- under various heads:

Loss of earning	-	Rs. 30,000/-
Transport to Hospital	-	Rs. 1,000/-
Extra Nourishment	-	Rs. 500/-
Medical Expenses	-	Rs. 4,500/-
Pain and sufferings	-	Rs. 25,000/-
Permanent disability	-	Rs. 80,000/-
Loss of earning power	-	Rs.2,60,000/-

Total		Rs.4,01,000/-

2. The claimant has in support of her contention regarding the nature of the injury and the nature and extent of disability sustained by her examined her father, herself and Dr.Thiyagarajan, Ortho specialist as P.W.1 to P.W.3 and produced discharge summary, outpatient chits, medical bills, ECG report and disability certificate as Ex.P.1 to P.6 and P.8 to P.10.

3. Though the claimant, on the basis of the oral and documentary evidence adduced on her side contended before the Tribunal that she was, due to head injury sustained by her, frequently getting seizures (fits) and loss of memory and speech impairment, the Tribunal for want of sufficient and satisfactory evidence disbelieved such theory. The Tribunal on the basis of the available evidence awarded the compensation of Rs.27,000/- i.e., 10,000/- and 17,000/- for permanent disability and for loss of earning power respectively. Aggrieved against the same, the claimant is now before this Court.

4. Though the learned counsel for the claimant would seriously argue before this Court that the Tribunal has rightly found that the claimant is frequently suffering pain on her backside because of the head injury sustained by her and she is not getting her menstruation regularly and she permanently get seizures because of the head injury sustained by her, the same was admittedly not proved through specialist. The Doctor, who was examined before this Court to speak about the same is the Ortho Specialist, who is not competent to speak about the physical sufferings mentioned above. However, this Court considering the age of the injured, nature of her avocation, period of her treatment and other aspects, is inclined to enhance the compensation as follows:

Loss of income during treatment period	-	Rs. 6,000/-
Transport to Hospital and extra nourishment	-	Rs. 10,000/-
Medical expenses	-	Rs. 5,000/-
Pain and suffering	-	Rs. 25,000/-
Permanent disability and loss of earning	-	Rs.1,00,000/-

Total		Rs.1,46,000/-

The same is rounded off to Rs.1,50,000/- . The same is payable with interest at 9% p.a.

5. In the result, the compensation of Rs.27,000/- is enhanced to Rs.1,50,000/- payable with interest at 9% p.a. from the date of petition till the date of deposit and the respondent/Transport Corporation is directed to deposit the enhanced amount of Rs.1,50,000/- with interest at 9% p.a. from the date of petition till the date of deposit within four weeks from the date of receipt of a copy of this judgment. On deposit of such amount into the Court, the claimant is permitted to withdraw the entire amount and the Civil Miscellaneous Appeal is accordingly allowed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsm

To

The Motor Accidents Claims Tribunal
(6th Judge, Small Causes Court),
Chennai.

+1cc to M/s.S.Rathinamani, Advocate, S.R.No.45662

+1cc to M/s.S.V.Vasantha Kumar, Advocate, S.R.No.45783

C.M.A.No.260 of 2002

MP (CO)

CA(28/12/2015)