

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1084 of 2014

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.,
Kumbakonam.

... Appellant

vs.

Minor Sakthivarma,
rep. By his father and next friend
Loganathan

.. Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 19.09.2013 made in M.C.O.P.No.1710 of 2012 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Cuddalore.

For Appellant : Mr.D.Venkatachalam

J U D G M E N T

The Transport Corporation has come up with this appeal mainly challenging the quantum of compensation awarded by the Tribunal.

2. In an accident which occurred on 01.07.2012, the minor claimant viz. Sakthivarma sustained grievous injuries on his head, nasal bone, lips, teeth, mandible, both hands and legs, chest and hips and he was admitted in Government Hospital, Chidambaram and took further treatment in Krishna Hospital, Cuddalore. The minor claimant represented by his father filed a Claim Petition before the Tribunal seeking a sum of Rs.10,00,000/- as compensation for the injuries.

3. After analyzing the available oral and documentary evidence, the Tribunal held that the accident occurred due to the rash and negligent driving of the driver of the appellant Transport Corporation Bus and awarded a sum of Rs.1,55,836/- as compensation with interest at the rate of 7.5% per annum. Details of the award are as follows:

Heads	Amount
Disability	Rs. 70,000.00
Pain and suffering	Rs. 20,000.00
Loss of amenities	Rs. 10,000.00
Medical Bills	Rs. 26,836.00
Extra nourishment	Rs. 5,000.00
Attender charges	Rs. 9,000.00
Future prospects	Rs. 10,000.00
Ambulance	Rs. 5,000.00
Total	Rs.1,55,836.00

4. Learned counsel appearing for the appellant/Transport Corporation contended that the Tribunal ought not to have awarded compensation under the heads 'future prospects' and 'loss of amenities', as the disability sustained by the minor claimant is only a partial permanent disability.

5. On a perusal of the records, it is seen that the minor claimant, who was studying XI standard, sustained fracture of both radius proximal end and fracture in right condyle of mandible. P.W.2 Doctor, who examined the minor claimant assessed his permanent disability at 35% and issued Disability Certificate vide Ex.P7. The Tribunal taking into account the age of the claimant, fixed a sum of Rs.2000/- for each percentage of disability and awarded a sum of Rs.70,000/- as compensation towards 'Disability'. Taking note of the fractures suffered by the claimant, who is a school going student, this Court is not inclined to interfere with the compensation awarded towards 'Disability' and the same is confirmed.

6. To the contention of the appellant Transport Corporation that the Tribunal ought not to have awarded any amount towards 'future prospects' and 'loss of amenities', this Court is of the view that the Tribunal has not awarded appropriate compensation towards 'future medical expenses', as the claimant, who is a student could not have attended school for a considerable period. In the case of Master Mallikarjun vs. Divisional Manager, National Insurance Co. Ltd. and another [2013 (2) TNMAC 338 (SC)], the Apex Court has held as under:

"12. Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of

the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc., should be, if the disability is above 10% and upto 30% to the whole body, Rs.3 lakhs; upto 60%, Rs.4 lakhs; upto 90%, Rs.5 lakhs and above 90%, it should be Rs.6 lakhs. For permanent disability upto 10%, it should be Rs.1 lakh, unless there are exceptional circumstances to take different yardstick. In the instant case, the disability is to the tune of 18%. Appellant had a longer period of hospitalization for about two months causing also inconvenience and loss of earning to the parents. ..."

7. Even going by the said judgment of the Apex Court, the minor claimant is entitled to a sum of Rs.4,00,000/- as compensation. Hence, this Court finds no reason to interfere with the compensation awarded by the Tribunal under various heads.

8. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation, i.e. a sum of Rs.1,55,836/- (Rupees One Lakh Fifty Five Thousand Eight Hundred and Thirty Six only) and the rate of interest at 7.5% per annum awarded by the Tribunal. It is made clear that if no amount is deposited so far, the appellant/Transport Corporation is directed to deposit the entire award amount together with accrued interest to the credit of M.C.O.P.No.1710 of 2012 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Cuddalore within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the entire award amount shall be deposited in any of the Nationalised Banks under reinvestment scheme, initially for a period of one year renewable thereafter and the interest accrued on such deposit shall be withdrawn by the natural guardian of the minor claimant, once in three months, till he attains majority. No costs. Consequently, connected M.P.No.1 of 2014 is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

aeb

To :

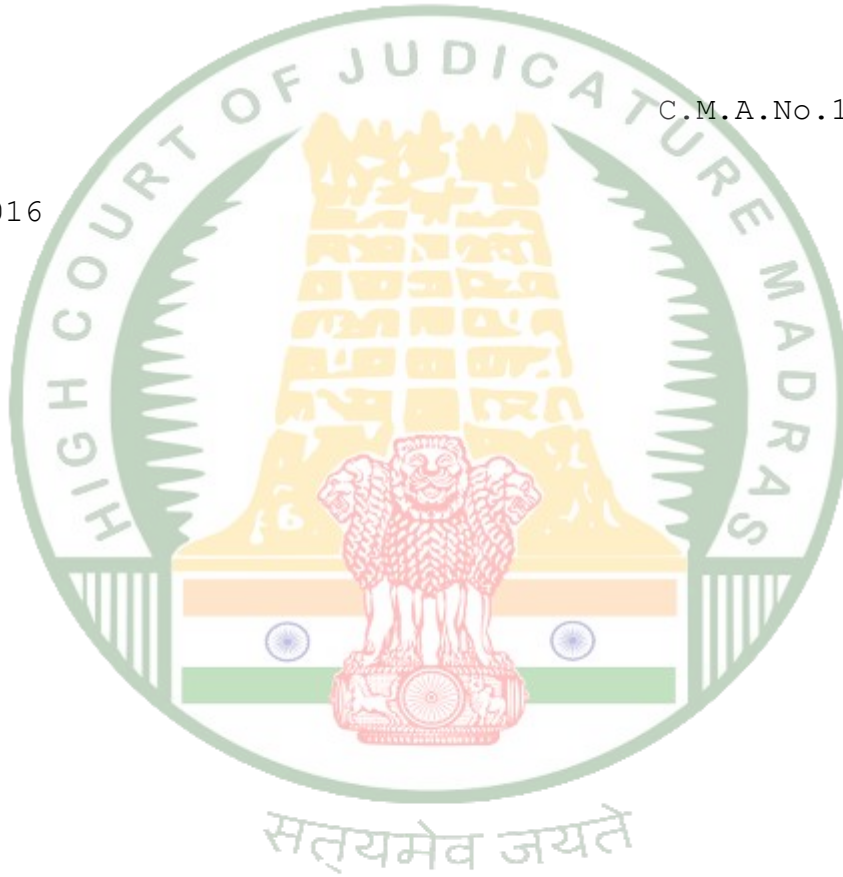
1.The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Cuddalore.

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

+1 cc to M/s.D.Venkatachalam Advocate sr 14778

C.M.A.No.1084 of 2014

aa15/09/2016



WEB COPY