

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.3091 of 2014

The Managing Director,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Dharmapuri Region,
Bharathipuram,
Dharmapuri-5.

.... Appellant/Respondent

vs.

Minor Amsaleka ... Respondent/Petitioner
Represented by her father Murugan

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 29.01.2011 made in M.A.C.T.O.P No.285 of 2008 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Dharmapuri.

For Appellant : Mr.D.Venkatachalam
For Respondent : Mr.M.Selvam

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. Heard the learned counsel on either side.

3. In an accident which occurred on 13.12.2006, the minor claimant viz. Amsaleka sustained grievous injuries and fractures in her right leg and immediately, she was taken to Dharmapuri Government Hospital and thereafter underwent treatment as an inpatient in St. Johnson Hospital, Bangalore from 14.12.2006 till 21.12.2006. The minor claimant represented by her father filed a Claim Petition before the Tribunal seeking a sum of Rs.3,00,000/- as compensation for the injuries.

4. 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.1,08,000/- as compensation with interest at the rate of 7.5% per annum. Details of the award are as follows:

Heads	Amount
Permanent disability	Rs. 60,000.00
Pain and suffering	Rs. 10,000.00
Injuries	Rs. 30,000.00
Mental agony	Rs. 5,000.00
Transportation, Extra nourishment and Loss of amenities (each Rs.1,000/-)	Rs. 3,000.00
Total	Rs.1,08,000.00

5. It is the contention of the learned counsel appearing for the appellant/Transport Corporation that the Tribunal ought not to have awarded compensation separately under the head 'injuries'.

6. On a perusal of the records, it is seen that the minor claimant, who was studying 9th standard, sustained fractures in her right leg and other grievous injuries and that steel plates were fixed in her right leg and plastic surgery was performed. P.W.2 Doctor, who examined the minor claimant assessed her permanent disability at 45% and issued Disability Certificate vide Ex.P6. However, the Tribunal taking into account the age of the claimant, fixed her permanent disability at 30% and taking Rs.2,000/- for each percentage of disability, awarded a sum of Rs.60,000/- as compensation towards 'permanent disability'. Further, the contention of the appellant Transport Corporation that the Tribunal has erred in awarding a sum of Rs.30,000/- towards 'injuries' cannot be acceptable, as the Tribunal can fix Rs.3,000/- for each percentage of disability. Assuming that Rs.3000/- is fixed for each of percentage of disability, then the revised compensation towards permanent disability would be arrived at Rs.90,000/-. Therefore, this Court finds no reason to interfere with the compensation awarded under the heads 'permanent disability' and 'Injuries' and they are accordingly confirmed. As far as the compensation awarded under other heads are concerned, taking note of the age of the minor claimant and the injuries suffered by her, this Court finds no reason to interfere with the same.

7. In fine, the Civil Miscellaneous Appeal is dismissed, confirming the quantum of compensation, i.e. a sum of Rs.1,08,000/- (Rupees One Lakh Eight Thousand 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.285 of 2008 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Dharmapuri 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 one 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 she attains majority. No costs. Consequently, connected M.P.No.1 of 2014 is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To :

1 The Additional District Judge,
Motor Accidents Claims Tribunal,
Dharmapuri.

2 The Section Officer,
V.R. Section, High Court, Madras

+1 CC to M/s. D. Venkatachalam, Advocate Sr.No.14774

+1 CC to M/s. M. Selvam, Advocate Sr.No.14758

C.M.A.No.3091 of 2014

RSK (CO)

MD : 06/10/2016