

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.360 of 2017

and C.M.P.No.2585 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
Division-I,
Villupuram. ... Appellant / Respondent

vs.

Minor M.Dhanasekar @ Dhanasekaran
(Rep. by his father Muthu) ... Respondent/Petitioner

Prayer : This appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and decree dated 27.11.2013 made in M.C.O.P.No.221 of 2011 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Villupuram.

For Appellant : Mr.K.J.Sivakumar

JUDGMENT

The petitioner minor M.Dhanasekar @ Dhanasekaran, aged 13 years, a student, met with an accident that took place on 22.01.2008 and sustained injuries, in respect of which, the father of the minor filed a claim petition in M.C.O.P.No.221 of 2011 before the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Villupuram, claiming compensation of Rs.10,00,000/-.

1.1. As against the claim made for a sum of Rs.10,00,000/-, the Tribunal has awarded a sum of Rs.2,52,000/-, which is payable by the Transport Corporation along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit. The break-up details of the award read as under:

Permanent disablement	-	Rs.1,21,500/-
20% disability	-	Rs. 40,000/-
Pain and sufferings	-	Rs. 20,000/-
Transport expenses	-	Rs. 5,000/-
Loss of education	-	Rs. 25,000/-
Extra nourishment	-	Rs. 5,000/-
Damage to clothes	-	Rs. 500/-
Medical expenses	-	Rs. 5,000/-
vigarathanmai	-	Rs. 25,000/-
Total	-	<u>Rs.2,52,000/-</u>

1.2. Challenging the quantum of compensation as excessive, the Transport Corporation has filed the Civil Miscellaneous Appeal.

2. The learned counsel for the appellant would submit that when the Tribunal has awarded the compensation for loss of earning capacity (permanent disablement) at Rs.1,20,500/-, the award of Rs.40,000/- towards the same disablement (20% disablement) at the rate of Rs.2,000/- per percentage of disability, is unsustainable and therefore, the award has to be reduced by Rs.40,000/-.

2.1. This contention is well founded, when the Tribunal has awarded compensation on account of permanent disablement by adopting the formula of $\text{Rs.4,500/-} \times 12 \times 15 \times 15/100$. Then, there is no justification to award 20% disablement compensation at the rate of Rs.2,000/- per percentage of disability. However, the fact remains that the minor injured has sustained injury over the legs and he had been in hospital more than 40 days. It is needless to point out that plastic surgery has been done, which leads to loss of strength in the legs. Therefore, pain and sufferings would have been more, especially the injured was minor at the time of accident. Therefore, the award of compensation at Rs.40,000/- has to be awarded under the head of pain and sufferings and it is estimated at Rs.60,000/-. Over all, there is no scope for reduction of compensation. Hence, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 27.11.2013 passed in M.C.O.P.No.221 of 2011 by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Villupuram.

3. The Transport Corporation is directed to deposit the entire amount of compensation, less the amount already deposited if any, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, within a period of six weeks from the date of receipt of a copy of this Judgment. The minor injured would have attained majority as on date.

Hence, subject to proof of having attained majority, the Tribunal shall permit the then minor/injured to withdraw the amount of compensation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS V)

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Sub Asst. Registrar

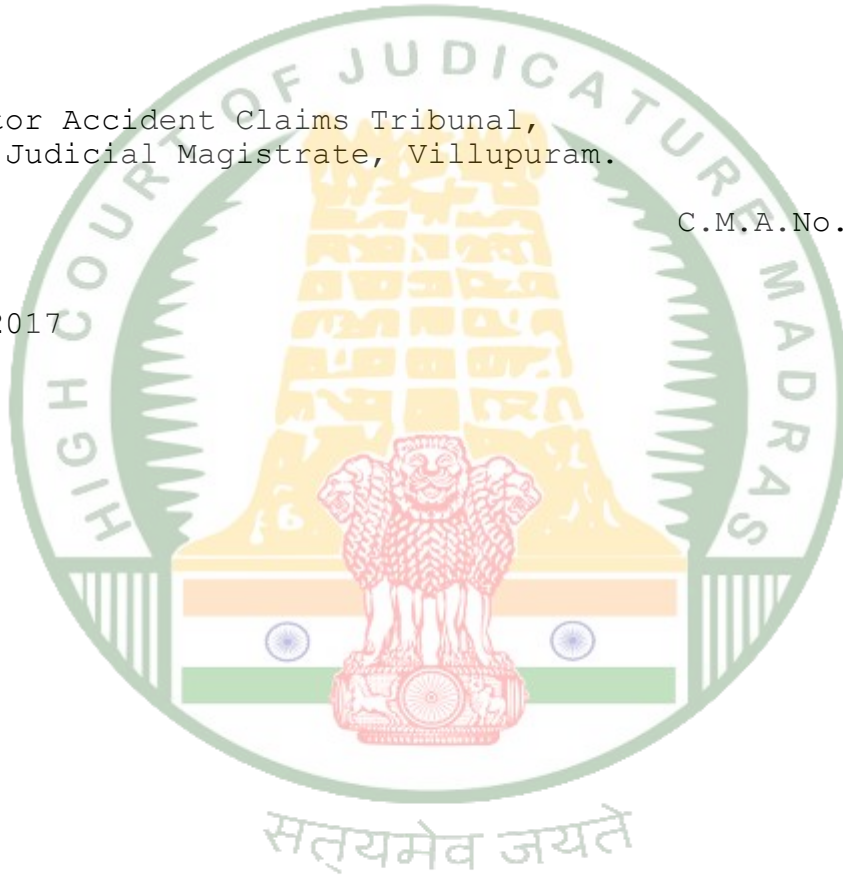
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To

1. The Motor Accident Claims Tribunal,
Chief Judicial Magistrate, Villupuram.

C.M.A.No.360 of 2017

VGII(CO)
NR 15/11/2017



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