

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.02.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.379 of 2017

and

CMP.No. 2667 of 2017

Metropolitan Transport Corporation Ltd.,
Rep. by its Managing Director,
Pallavan Salai,
Chennai-2.

.. Appellant

versus

S.Harshada (Minor)

..Respondent.

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 praying to set aside the award made in M.C.O.P.No.2391 of 2009 dated 08.01.2014 on the file of the Motor Accidents Claims Tribunal-III (Court of Small Causes) Chennai.

For appellant : Mr.K.S.Suresh

For Respondent : Mr.K.V.Muthu Visakan

J U D G M E N T

This appeal has been filed by the Transport Corporation, challenging the quantum of compensation awarded by the Claims Tribunal, as excessive.

2. Minor, S.Harshada, aged 9 years, studying IV Standard in DAV Public School, Velacherry, met with an accident on 14.01.2009 due to which she sustained severe head injury, traumatic brain injury and multiple injuries all over the body. Hence, the Minor S.Harshada, represented by her father has filed claim petition in M.C.O.P.No.2391 of 2009, claiming compensation in a sum of Rs.10,00,000/-.

3. The Claims Tribunal, on consideration of oral and documentary evidence has quantified the compensation at Rs.4,56,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit. The break-up details of the same are as follows:

Transport to Hospital	-	Rs. 15,000/-
Extra nourishment	-	Rs. 25,000/-
Damage to clothing	-	Rs. 1,000/-
Medical Expenses	-	Rs. 50,000/-
Attender charges	-	Rs. 10,000/-
Loss of amenities of life	-	Rs. 25,000/-
Pain and sufferings	-	Rs. 50,000/-
Permanent disability	-	Rs.1,80,000/-
Loss of future prospects of life	-	Rs.1,00,000/-
Total		Rs.4,56,000/-

4. The learned counsel appearing for the appellant submits that the amount of compensation awarded by the Claims tribunal is excessive and the same needs to be reduced. Though a plea has been raised with regard to negligence in the grounds of appeal, however, at the time of hearing, learned counsel for the appellant confined his argument to the award being excessive and, therefore, this Court is dealing only with regard to the excessiveness of the award.

5. The Claims Tribunal, in its award dated 08.01.2014, considering the materials placed before it, more specifically Ex.P-2, the discharge summary, observed as under:

"Ex.P2-Discharge Summary reads to the effect that she had taken treatment as inpatient at Apollo Speciality Hospital from 14.01.2009 to 10.02.2009. She had suffered traumatic brain injury, right temporal extradural hematoma, multiple facia maxillary fractures, right temporal extradural hematoma, multiple facia maxillary fractures, right temporal and left occipital bone comminuted fracture. She was admitted in ICU and anti cerebral edema medications anti convulsants and other supportive measures were given. Ex.P24- Dr.Agarwal Eye Hospital report shows that the visual capacity in the right eye was 6/60. Ex.P25- Disability certificate issued by P.W.6- speaks about the same.

According to the petitioner, her age was 9 years at the time of accident. There is no specific record to show the age. In Ex.P2- Discharge Summary, the age is mentioned as 9. Considering the medical record, the age is fixed as 9 years."

6. The Claims Tribunal, considering the evidence on record and also taking note of the evidence of P.W.6, the Doctor who examined the claimant and issued disability certificate Ex.P25, has rendered a finding that the loss of vision would hamper the studies of the claimant and that it would not be possible for her to continue her studies. Therefore, the Tribunal has come to the conclusion that the injuries sustained by her would diminish her chances of getting a better position in life. Taking into consideration all the above factors, the Tribunal has awarded compensation under the heads as noted above.

7. A perusal of the order as also the findings arrived at by the Tribunal for awarding the above compensation reveals that the Tribunal has taken into consideration all the facets of the case and has come to the right conclusion and awarded just and reasonable compensation, which cannot be said to be unreasonable or excessive. Therefore, this Court is of the considered view that no interference is called for with the award passed by the Tribunal and, accordingly, the same is confirmed.

8. For the reasons aforesaid, this civil miscellaneous appeal fails and the same is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

9. The appellant/Transport Corporation is directed to deposit the entire award amount along with interest and costs as ordered by the Tribunal, less the amount, if any, already deposited to the credit of the claim petition within a period of four weeks from the date of receipt of a copy of this order.

10. At this juncture, learned counsel for the respondent/claimant seeks permission of the Court to withdraw some portion of the compensation awarded, submitting that the claimant is undergoing further medical treatment.

11. It is seen that a sum of Rs.50,000/- was awarded towards medical expenses and a sum of Rs.15,000/- was awarded under the head transportation. Considering the age of the claimant, the nature of injury suffered by her, treatment given and the period of treatment, the father of the minor claimant is permitted to withdraw a sum of Rs.1,00,000/- (Rupees One Lakh) from the

compensation awarded. The balance portion of the award amount along with interest shall be kept in interest bearing fixed deposit by the Tribunal and the father of the claimant is permitted to withdraw the interest accruing from the said deposit once in three months for the purpose of medical treatment alone on production of necessary proof of treatment.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

arr/GLN

To

1. The Motor Accidents Claims Tribunal-III
(Court of Small Causes) Chennai.
2. The Section Officer, VR Section,
High Court, Madras.

C.M.A. No.379 of 2017

GMR (CO)
SP (05/03/2018)



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