

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 05.01.2017
CORAM
THE HON'BLE Dr.JUSTICE S.VIMALA

C.M.A.No.437 of 2014
and M.P.No.1 of 2014

The Managing Director,
M/s.Tamilnadu State Transport Corporation
[Kumbakonam Division-II] Ltd.,
Periyamilaguparai, Trichy-1
... Appellant/1st respondent

Vs.

1. Minor P.Raja
Rep. by his natural guardian and father
Periyasamy1st respondent/Claimant

2. P.Veeramani

3. The Branch Manager,
M/s.United India Insurance Co. Ltd.,
No.50A, Pallivasal Street,
Perambalur2 & 3rd Respondents/
Respondents 2 & 3

Civil Miscellaneous Appeal preferred under Section 173 of
the Motor Vehicles Act, 1988 against the common judgment and
decree dated 31.07.2013 made in M.C.O.P.No.60 of 2012 on the
file of the Motor Accident Claims Tribunal, Principal District
Judge, Perambalur.

For Appellant : Mr.D.Venkatachalam
For Respondents : Mr.Gopi for M/s.Royan Law Asso.

J U D G M E N T

The appeal filed by the Transport Corporation, challenging
the quantum of compensation awarded in M.C.O.P.No.60 of 2012 on
the file of the Motor Accident Claims Tribunal/Principal
District Judge, Perambalur, under which, a sum of Rs.2,01,000/-
has been awarded.

2. The breakup details of the Award runs as under:	
i. Permanent disability 32%	Rs. 64,000/-
ii. Pain and suffering	Rs. 30,000/-
iii. Medical expenses	Rs. 10,000/-
iv. Transport charges	Rs. 10,000/-
v. For nutrition	Rs. 10,000/-
vi. Loss of income during treatment	
@ Rs.4,500/- p.m. for 6 months	Rs. 27,000/-
vii. Attender charges	Rs. 10,000/-
viii. Loss of future prospects due to partial disability	Rs. 40,000/-

Total	Rs.2,01,000/-

3. It is the case of injury sustained by a boy aged 7 years old, who is a school student, who suffered 32% disability on account of fracture of bones in his left hand. He has also suffered fracture in the left thigh.

4. Learned counsel for the appellant would point out that when the claimant was aged only 7 years and a school student, there is no scope for earnings at Rs.4,500/- per month and that too, for a period of six months and therefore, the compensation awarded under loss of income of Rs.27,000/- is liable to be deducted from the total amount of compensation.

5. This contention is well founded and there cannot be any award under the head loss of income for a minor aged about 7 years. There is also a prohibition of a person being employed, when he is below 18 years/14 years. However, learned counsel for the claimant would point out that when a boy aged 7 years sustained injuries, having suffered disability, the cost of attender charges must have been awarded at least at Rs.17,000/- and the award of Rs.10,000/- is very low. Therefore, the attender charges is enhanced from Rs.10,000/- to Rs.17,000/-, considering the period of treatment and the nature of injury. But the loss of income awarded is set aside. Therefore, the amount of compensation awarded is Rs.1,81,000/-.

6. The next contention is that when the disablement compensation has been awarded, then future prospective income on account of disablement would be a duplicate award. This contention is also correct, but the fact remains that the claimant has not been awarded loss of enjoyment of amenities. Because of the fracture of thigh bone, the claimant who is aged 7 years would be deprived of his childhood pleasure of playing and taking part in trekking and other sports involving skill and adventure. Therefore, the award under future prospects would go

to the head of loss of enjoyment of amenities.

7. This Civil Miscellaneous Appeal is partly allowed reducing the quantum of compensation by Rs.20,000/-. The Appellant/Transport Corporation is directed to deposit the entire award amount as ordered by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. The Transport Corporation is directed to deposit the award amount in the fixed deposit till the minor claimant attains majority. The interest payable on such deposit shall be paid to the guardian once in three months. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gya

To
1.The Motor Accident Claims Tribunal/Principal District Judge,
Perambalur.

copy to

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

+1 cc to M/s.Royan Law Associates sr 1274

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