

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.01.2017

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

C.M.A.No.438 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 Abishek, S/o.Anbalagan,
Rep. by his natural guardian and father
Anbalagan ...1st Respondent/Petitioner

2. P.Veeramani

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

(R2 has been set exparte before the Tribunal.
Hence summons may be dispensed with)

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.61 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. for R1

J U D G M E N T

Appeal filed by the Transport Corporation, challenging
the quantum of compensation awarded in M.C.O.P.No.61 of 2012
on the file of the Motor Accident Claims Tribunal/Principal
District Judge, Perambalur, under which, a sum of
Rs.2,03,000/- has been awarded.

2. The breakup details of the Award runs as under:
- | | |
|---|--------------|
| i. Permanent disability 33% | Rs. 66,000/- |
| 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 and | |

@ Rs.4,500/- p.m for 6 months Rs. 27,000/-

vii.Loss of future prospects due to
 partial disability Rs. 40,000/-
viii.Attender charges Rs. 10,000/-

Total Rs.2,03,000/-

3. It is the case of injury sustained by a boy aged 6 years old, who is a school student suffered 33% disability on account of fracture of bones in his left hand and head injury.

4. Learned counsel for the appellant would point out that when the claimant was aged only 6 years and a school student, there is no scope for earnings at Rs.4,500/- per month, that too, 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 6 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 6 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 nature of injury. But the loss of income awarded is set aside. Therefore, the amount of compensation awarded is Rs.1,83,000/-.

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 parietal bone, the claimant aged 6 years would be deprived of his childhood pleasure of playing and taking part in trekking and other sports involving skill and adventure [because of head injury - giddiness and loss of memory]. 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, to the credit of MCOP.No.61 of 2012 before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the Tribunal 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(CCC)

//True Copy//

Sub Assistant Registrar

gya

To

1.The Motor Accident Claims Tribunal [Principal District Judge],
Perambalur.

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

+1cc to Mr.D.Venkatachalam, Advocate SR.No.1189/17

+1cc to M/s.Royan Law Asso. Advocate SR.No.1275

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and
M.P.No.1 of 2014

BR(CO)

sm:18.12.2017



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