

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.882 of 2017
and C.M.P.No.4347 of 2017

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Coimbatore Limited,
Chennimalai Road, Erode. Appellant / 1st respondent

versus

1. Minor Kowsika 1st respondent / Petitioner
 2. Azhagumuthu
 3. The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
No.12, Ramakrishna Road,
Salem - 7.
 4. Govindan Respondents 2 to 4/
Respondents 2 to 4
- (R2 to R4 are given up)

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree dated 29.02.2012 made in M.C.O.P.No.92 of 2010 on the file of the Motor Accident Claims Tribunal, Sub Court, Sankari.

For Appellant : M/s.R.T.Sundari

For R1 : Mr.C.Kulanthaivel

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JUDGMENT

The claimant, Kowsika, aged 12 years, a student, met with an accident on 17.01.2010 and sustained injuries, in respect of which, she filed a claim petition before the Motor Accident Claims Tribunal, Sub Court, Sankari, claiming compensation of Rs.3,00,000/-.

2. The Tribunal, after considering the oral and documentary evidence, has quantified the compensation under the following break-up details:

Disablement compensation	-	Rs. 54,000/-
Pain and suffering	-	Rs. 25,000/-
Medical expenses	-	Rs. 2,700/-
Extra nourishment	-	Rs. 20,000/-
Cost of attendant	-	Rs. 5,000/-
Transport expenses	-	Rs. 5,000/-
Loss of comfort	-	Rs. 5,000/-

Total Compensation Quantified -		Rs.1,16,700/-

But, the Tribunal has awarded a sum of Rs.1,14,000/- as compensation to the claimant.

3. Though very many grounds have been raised in the appeal, however, at the time of argument, the learned counsel for the appellant has restricted his argument to the quantum of compensation alone and, therefore, this Court is not venturing into the other grounds raised by the appellant.

4. The learned counsel appearing for the appellant submitted that the Tribunal has erred in fixing the percentage of disability at 27% and awarded a sum of Rs.54,000/- towards the disablement compensation, which is excessive and disproportionate to the injuries sustained by her. He also submitted that the compensation awarded under other heads are also excessive and the same has to be reduced.

5. A perusal of the award passed by the Tribunal reveals that the mother of the claimant examined herself as P.W.2, wherein, she deposed that her daughter was aged 11 years at the time of accident and she has sustained fracture in right thigh and injuries over the right knee. P.W.4, the Doctor, has assessed the disability at 29%. Considering the counter submission made that the Doctor, without giving treatment, has assessed the disability at 29%, the Tribunal has fixed the disability at 27%. The Tribunal has awarded a sum of Rs.2,000/- per percentage of disability and awarded Rs.54,000/- towards permanent disability. Considering the nature of disability, period of treatment and impact of injuries on the life of the injured, the Tribunal has awarded Rs.25,000/- towards pain and suffering, Rs.2,700/- towards medical expenses, which are supported by bills (Ex.P9), Rs.20,000/- towards extra nourishment, Rs.5,000/- towards cost of attendant, Rs.5,000/- towards transport expenses and Rs.5,000/- towards loss of comfort, in all totalling to a sum of Rs.1,16,700/-. However, the Tribunal in the operative portion of the award has awarded only a sum of Rs.1,14,000/- as compensation.

6. From the perusal of the award, it is clear that the Tribunal after considering the oral and documentary evidence, nature of injuries, period of treatment, impact of injuries on the life of the minor claimant, awarded the compensation. However, it is to be pointed out that the disablement compensation awarded by the Tribunal is very low, but in the absence of any counter claim by the claimant, this Court is not inclined to enhance the compensation on the said head. Further, a perusal of the injuries sustained by her would show that the said injuries would affect the normal life of the injured and the claimant, being a lady, it would have its effect on the martial prospects. However, inspite of the above, the compensation awarded under the head loss of comfort is very low. However, there being no appeal for enhancement, this Court is not inclined to enhance the compensation. Considering all the factors shown above, the award cannot be said to be excessive. Therefore, the appeal deserves to be dismissed.

7. Accordingly, this Civil Miscellaneous Appeal is dismissed, confirming the award dated 29.02.2012 passed in M.C.O.P.No.92 of 2010 by the Motor Accident Claims Tribunal, Sub Court, Sankari. No costs. Consequently, connected miscellaneous petition is closed.

8. The Transport Corporation is directed to deposit the entire amount of compensation as awarded by the Tribunal, less the amount, if any, already deposited, 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 four weeks from the date of receipt of a copy of this Judgment. The minor claimant would have attained majority by now. On such deposit being made, the Tribunal shall transfer the same directly to the Bank Account of the claimant through RTGS, within a period of two weeks thereafter, subject to production of necessary documents to prove the majority of the claimant.

Sd/-

Assistant Registrar(CS-VIII)

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Sub Assistant Registrar

ogy/GLN

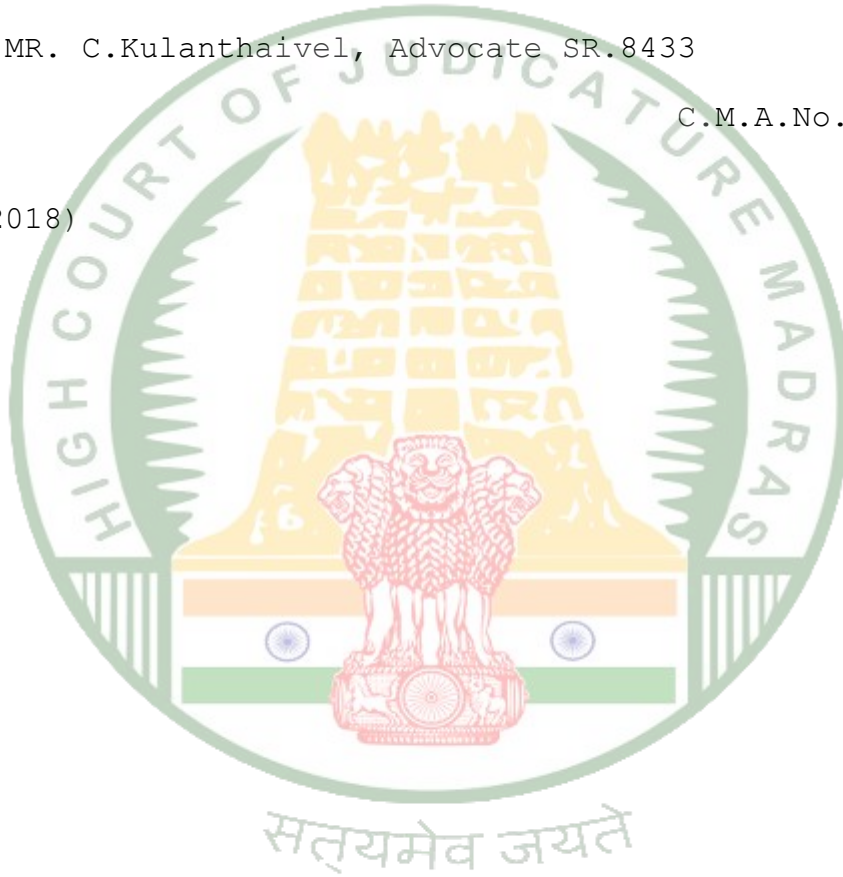
To

1. The Sub Judge,
Motor Accident Claims Tribunal,
Sankari.
2. The Section Officer, Vr Section,
High Court, Madras.

+ 1 cc to MR. C.Kulanthaivel, Advocate SR.8433

C.M.A.No.882 of 2017

AD(CO)
EU(06/04/2018)



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