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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.06.2017

CORAM

THE HONOURABLE DR. JUSTICE S.VIMALA

C.M.A. No.2230 of 2017

and

CMP. No.11836 of 2017

Metropolitan Transport Corporation Ltd.,
Represented by its Managing Director,
Pallavan Salai, Chennai -2 .. Appellant/Respondent

versus

1. Naveen (Minor)
2. Sasikumaran .. Respondents/Petitioners

Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree made in MCOP No.496 of 2009 dated 03.10.2012 on the file of the Motor Accidents Claims Tribunal IVth court of Small Causes, Chennai and praying to set aside the same.

For appellant : Mr.S.Sivakumar

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal in M.C.O.P.No.496 of 2009, dated 03.10.2012 on the file of the MACT IV court of Small Causes, Chennai the present appeal has been filed by the Transport Corporation.

2. The claimant, Naveen, a minor, aged about 12 years, met with an accident on 13.12.2007 near Perambur Railway station bus stop. Therefore, he filed a claim petition claiming a sum of Rs.15,00,000/- as compensation.

3. The Tribunal, on consideration of oral and documentary evidence, awarded a sum of Rs. 6,14,250/- as compensation, the break-up of which is as under :-



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Loss of Education	-	Rs.1,00,000/-
Transport to Hospital	-	Rs. 10,000/-
Addl. Transport Expenses	-	Rs. 50,000/-
Extra Nourishment	-	Rs. 10,000/-
Medical Expenses	-	Rs. 24,250/-
Loss of Amenities	-	Rs.1,00,000/-
Pain & Suffering	-	Rs. 50,000/-
Loss of Future Earning capacity	-	Rs.2,70,000/-

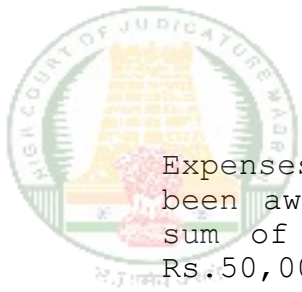
Total		Rs.6,14,250/-

Challenging the compensation awarded as excessive, the Transport corporation has filed this appeal.

3. It is the contention of the learned counsel appearing for the appellant submitted that the compensation awarded towards permanent disability and loss of earning is on the higher side. The fixation of Rs.3,000/= per month towards the income is excessive. The compensation awarded towards loss of education is also excessive and the excess compensation awarded requires to be reduced.

4. A perusal of the order passed by the Tribunal reveals that the claimant had taken treatment as inpatient in the Government Hospital from 18.12.2007 to 20.02.2008. The claimant was diagnosed as having fracture of left patella, fractured fibula, dislocation of left ankle with crush injury on left foot and ankle. Plastic surgery had been done over the claimant. P.W.2, the doctor, has issued disability certificate assessing the disability at 70%. Though the doctor has assessed the disability at 70%, however, considering the overall aspect of the matter, the Tribunal has fixed the functional disablement at 50%.

5. Taking note of the injuries sustained by the claimant and the period of treatment and the impact of the injuries on the education of the claimant, and keeping in mind the fact that the claimant was unable to attend school for a period of six months, the Tribunal awarded compensation of Rs.1,00,000/= towards loss of education. Further, the injuries warranted the need for the claimant to visit the hospital more often and, therefore, compensation in a sum of Rs.10,000/- was awarded towards transport expenses. Further, considering the nature of injuries sustained by the claimant and the restriction in mobility due to the said injuries, the Tribunal awarded a sum of Rs.50,000/- towards additional Transport Expenses reasoning that it would be necessary for the claimant to attend school for which he requires transportation. The Tribunal further awarded a sum of Rs.10,000/- towards extra nourishment. Medical



Expenses, supported by bills, to the tune of Rs.24,250/- has been awarded by the Tribunal. The Tribunal further awarded a sum of Rs.1,00,000/- towards loss of amenities and a sum of Rs.50,000/- towards pain and suffering.

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6. The Tribunal, further taking note of the fact that the claimant is a student, fixed the notional income at Rs.3,000/- and adopting multiplier of 15, awarded a sum of Rs.2,70,000/- towards loss of future earning capacity for the 50% disablement suffered by the claimant (Rs.3,000 X 12 X 15 X 50%). In all, the Tribunal quantified the compensation at Rs.6,14,250/-

7. Though it is the contention of the learned counsel for the appellant that the compensation awarded by the Tribunal towards loss of education is excessive, however, the said contention is liable to be rejected for the simple reason that the injuries sustained by the claimant clearly prevented the claimant from attending school for more than a period of six months. The claimant had taken treatment as in-patient for a period of around two months. Taking all the above into consideration, the award of Rs.1,00,000/- towards loss of education cannot be said to be excessive and, accordingly, the same is confirmed.

8. Insofar as the amount awarded towards loss of earning and permanent disability is concerned, it is to be pointed out that at a tender age of 12, the claimant has suffered very many injuries, which will have a detrimental effect in the longer run, though there are chances of the same getting better. The Tribunal, keeping in mind both the aspects, has fixed the income at Rs.3,000/=. If not for the age, the Tribunal would have definitely fixed a higher income. Therefore, the finding and the consequent award of the Tribunal cannot be said to be excessive and it is rather more conservative and is liable to be confirmed. In such view of the matter, this Court is of the considered view that the said finding is just and reasonable and is accordingly the same is confirmed.

9. Insofar as the compensation under the other heads are concerned, considering the nature of injuries, the period of treatment, the nature of treatment and the impact of the injuries not only on the day-to-day life of the claimant, but also on the future life of the claimant, this Court is of the considered view that the amounts awarded under those heads are just and reasonable and no interference is called for with the award of those amounts. Accordingly, the same is confirmed.

10. For the reasons stated above, the appeal fails and the same is dismissed, confirming the award passed by the Tribunal. Consequently, connected miscellaneous petition is closed.



11. The appellant/Transport Corporation is directed to deposit the entire award amount as quantified by the Tribunal along with interest and costs, 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. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimant through RTGS, within a period of two weeks thereafter.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

rkp/GLN

To

1. Motor Accidents Claims Tribunal
IVth court of Small Causes, Chennai

2. The Section Officer, VR Section,
High Court, Madras.(2 copies)

C.M.A. No.2230 of 2017

MG(CO)
TR(21/05/2018)