



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.07.2018

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) .No.1638 of 2013

WEB COPY

Minor Venkatesh
rep. through his father and natural
guardian P.Vijayakumar.

... Appellant/Petitioner

Vs.

Tamil Nadu State Transport Corporation,
Kumabkonam Limited,
through its Managing Director,
Railway Station Pudu Road,
Kumbakonam Taluk and Town,
Thanjavur District.

... Respondent /Respondent

PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 04.06.2013, passed in M.C.O.P.No.63 of 2010 by the Motor Accident Claims Tribunal / Additional Subordinate Court, Kumbakonam.

For appellant	:	Mr.A.Saravanan
For respondent	:	Mr.P.Prabhakaran

JUDGMENT

Heard the learned counsel appearing for the appellant / Claimant and the learned counsel appearing for the respondent / Transport Corporation.

2. It is a case of Injury. The manner of the accident is not in dispute. The claimant was aged about 9 years at the time of the accident. The Tribunal has awarded only a sum of Rs.75,035/- as compensation. The claimant has filed this appeal seeking to enhance the compensation.

3. When the matter came up for hearing on 02.07.2018, the learned counsel appearing for the appellant / claimant contended that except awarding a sum of Rs.73,035/- towards medical expenses based on the medical bills, the Tribunal has not awarded any sum towards any other heads like disability, pain and sufferings, future medical expenses, nourishment, loss of amenities, etc. The learned counsel appearing for the respondent has also accepted the above submission of the learned counsel for the claimant. However, he submitted that the disability of the claimant has not been assessed by the Tribunal and it has to be assessed by a Doctor. Considering the above submission, this Court directed the Registry to list the matter before the National Lok-Adalath, where a qualified Doctor



would be present in order to assist the Court. Accordingly, this case was listed before me in the National Lok-Adalath held on 14.07.2018 and the Doctor, after examining the claimant, has assessed the disability as 15% and while such examination, the claimant expressed the inconvenience suffered by him, especially during his nature call. The Doctor would state that it will become alright in the course of time. After such assessment, at the request of the appellant, the matter was directed to be listed before this Court.

4. Today, when the matter was taken up for hearing, by relying upon the decision of the Hon'ble Supreme Court in Vimal Kanwar Vs. Kishore Dan, reported in 2013 (1) TN MAC 641 (SC), the learned counsel for the appellant / claimant requested this Court to award Rs.3,000/- per percentage of disability. He further submitted that considering the pain and sufferings undergone by the claimant and also the impact of the injuries sustained in the accident, this Court may reasonably award under the heads of pain and sufferings, future medical expenses, nourishment, loss of amenities. Thus, he prayed to enhance the award amount.

5. Heard the learned counsel appearing for the respondent / Transport Corporation in this regard.

6. It is seen from the record that at the time of the accident, the claimant / injured was aged about 9 years. Due to accident, the claimant has sustained fractures on the right and left side of the hip and injuries on penis, abdomen and kidney. It is also seen that the injured took treatment in various hospitals. It is stated by the Doctor that the injured could not even walk and due to the injuries in the private part of the claimant, urine tube was inserted on the body of the deceased for passing urine. Now, he can able to walk and pass urine with some difficulties. Therefore, the Doctor has assessed the disability as 15%. The disability of the claimant is, accordingly, fixed as 15%. As held by the Hon'ble Supreme Court in Vimal Kanwar case, this Court is inclined to award Rs.3,000/- per percentage of disability and accordingly, the compensation under the head of disability comes to Rs.45,000/- (3000 x 15 = 45,000).

7. Considering the age of the claimant, nature of the injuries sustained by the claimant, pain and sufferings undergone by the claimant and the difficulties still faced by the claimant, this Court is inclined to pass award under the following heads:

Pain and sufferings	Rs. 50,000/-
Future medical expenses	Rs. 25,000/-
Nourishment	Rs. 20,000/-
Loss of amenities	Rs. 20,000/-
Total	Rs. 1,15,000/-

If the amount awarded under the above heads added with the amount awarded by the Tribunal under the head of Medical expenses, the total compensation comes to Rs.2,35,035/-.



8. In view of the above, the award passed by the Tribunal is enhanced from Rs.75,035/- to Rs.2,35,035/-. The respondent / Transport Corporation is directed to deposit the entire award amount ie., Rs.2,35,035/-, less the amount already deposited, with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, within a period of eight weeks from the date receipt of a copy of this judgment. As the appellant is a minor, the Tribunal is directed to deposit entire award in any one of the nationalised banks till the claimant attains majority. The claimant is directed to pay the Court fee, if any to be paid, within a period of two weeks from the date of receipt of copy of this judgment.

9. This Civil Miscellaneous Appeal is, accordingly, allowed. No costs.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1.The Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Additional Subordinate Court,
Kumbakonam.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. **(2 Copies)**.

+1CC to Mr.P.Prabhakaran, Advocate, SR.No.73431

+1CC to Mr.A.Saravanan, Advocate, SR.No. 73291

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ES/SKN/RSK/SAR 3/02.08.2018/3P/6C