

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH  
AND  
THE HONOURABLE MR. JUSTICE C.SARAVANAN

C.M.A. No. 22 of 2015

The Managing Director,  
Tamil Nadu State Transport Corporation  
(Villupuram) Limited,  
No.3/137, Salamedu,  
Vazhuthareddy,  
Villupuram - 605 602. ... Appellant/Respondent

Vs.

V.Geetha ...Respondent/Petitioner

Prayer: Appeal filed under Section 173 of Motor Vehicles Act,1988 against judgment and decree dated 24.07.2014 made in M.C.O.P.No.2165 of 2009 on the file of the Motor Claims Tribunal, Special Sub Judge I, Chennai.

For Appellant : Mr.K.J.Sivakumar  
For Respondent : Mr.B.Velmurugan

JUDGMENT

(Delivered by M.M.Sundresh,J.)

This appeal is preferred on the question of quantum alone. We are dealing with a case of an young lady aged 27 years who suffered injury followed by treatment which is extracted hereunder:-

"Injuries:- Open fracture pelvis with widening of pubic diastasis with inferior Pubic Rami fracture on both sides: fracture shaft of femur right side; grade II compound fracture distal tibia and fibula on the left side; Grade III compound fracture Ulna on the right side; fracture radius on the left side; crush injury right leg; severe Pulmonary contusion

Procedure Done:- amputation of right lower limb; she underwent wound debridement knee articulation right and IM nailin right femur, plate osteosynthesis left radius and plate osteosynthesis right ulna done;

Haematoma evacuation left leg, Necrectomy right done; plate osteosynthesis II and IV metacarpal bone done; she underwent split skin grafting of the amputation wound right side done second day suturing of the raw area left leg done;"

2. Materials available on record, including the photograph submitted, would show that the respondent/claimant has lost her right leg which has been replaced with an artificial limb. Even on the other leg, there was a serious injury in which a metal plate has been fixed. The injuries, as recorded, followed by the treatment are not in dispute. Under the conventional heads, i.e., loss of earning, injuries, transportation, extra nourishment, medical treatment, future prospects, social status, pain and suffering, etc., the Tribunal awarded a sum of Rs. 24,33,000/- in total.

3. Learned counsel appearing for the appellant would submit that the compensation awarded is excessive. The claimant was not working actually. The multiplier '18' adopted by the Tribunal is though correct, the over all compensation cannot be sustained. Similarly, the amount granted for the social status and under other heads is very high. Therefore, the award requires interference.

4. The learned counsel for the respondent claimant placing reliance on Order XLI Rule 33 of the Civil Procedure Code submitted that it is a fit case where the compensation awarded needs to be enhanced. Learned counsel has also placed reliance upon the Constitution Bench judgment of the Supreme Court in National Insurance Company Limited v. Pranay Sethi and others reported in (2017) 16 SCC 680 and submitted that fixing of Rs.10,000/-, including the future prospects, cannot be sustained in the eye of law.

5. Considering the material available on record, we are of the view that it is fit case to exercise the power conferred under Order XLI Rule 33 of CPC. The Tribunal has awarded only Rs.10,000/- per month including future prospects. We are dealing with a case of a Ph.D student, aged about 27 years. Admittedly, she has lost her right leg. Even in the left leg a major surgery was done and a metal plate has been fixed. The injuries suffered are not in dispute. We may not know what is the nature of the job she might undergo. Suffice it to say that she is educationally well qualified and has not married at the time of accident, in which status she continues to be even now. Therefore, there is further likelihood of not getting married even in future. Her entire dream of a happy life has shattered because of the accident that occurred. She has to live with the disability throughout her life time and will have to compromise

on the quality of life. We are of the view that fixing a sum of Rs.10,000/- per month by the Tribunal which is inclusive of her possible income apart from future prospects is not very high.

6. Learned counsel appearing for the respondent/claimant would submit that a sum of Rs.30,31,922/- may be awarded by increasing the future prospects in tune with the Constitution Bench judgment referred supra. We are concerned with the just compensation to be fixed. Therefore, without going into the intricacies of various heads fixed and in the light of our discussion that fixation of Rs.10,000/- per month is not very high. It would be appropriate to enhance the amount of compensation from Rs.24,33,000/- to Rs.29 lakhs. We do so after holding that the Tribunal ought to have increased the total loss of income in tune with the judgment of Apex Court in Pranay Sethi, referred supra. Similarly, as discussed above, the Tribunal ought to have granted some more amount towards the loss of future prospects. Accordingly, we fix a sum of Rs.29 Lakhs as compensation. The entire award amount shall be deposited by the appellant Transport Corporation in a Nationalised Bank within a period of eight weeks from the date of receipt of a copy of this order. The respondent/claimant is directed to pay the proportionate court fee within a period of one week from the date of receipt of a copy of this order for the enhanced amount. All other conditions imposed in the judgment of the learned Tribunal hold good. No costs. Consequently, connected MP.No.1 of 2015 is closed.

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

ssm

To:

The Special Sub Judge I,  
Motor Accidents Claim Tribunal  
Chennai.

Copy to

The Section officer  
VR Section, High Court, Madras 104.

+1 CC to Mr.K.J.Sivakumar, Advocate sr 16910.

+2 CCS to Mr.B.Velmurugan, Advocate sr 17804.

C.M.A. No. 22 of 2015

VGII (CO)

SP(15/05/2019)