

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on :01.03.2019

Judgment Pronounced on :12.06.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3203 of 2011

Minor Baskar
S/o.K.Sanjeevan,
Minor rep.by N.F.Mother Ramani,
Kothialaganoor Village, Emakkalnatham Post,
Krishnagiri Taluk and District..... Appellant/Petitioner

Versus

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Bharathipuram,
Salem Main Road,
Dharmapuri. Respondent/Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree dated 22.01.2011 made in MCOP.No.1144 of 2007 on the file of the Motor Accident Claims Tribunal Additional District Court, Krishnagiri.

For Appellant : Mr.Mukund R.Pandiyan
For Respondents : Mr.D.Venkatachalam

JUDGMENT

The claimant is the appellant herein, has preferred this appeal for enhancement of compensation.

2.The factum of the accident and the rash and negligence on the part of the driver of the offending vehicle are not in dispute and hence, in this regard the findings of the Tribunal are hereby confirmed.

3.On the point of quantum, I have heard both sides and perused the materials available on records.

4.On a perusal of the records, it is seen that at the time of accident, the minor claimant was aged 3 years. PW.2/Dr.D.V.Gandhi, deposed that the minor claimant Baskar was admitted at the Government Hospital, Salem in the Ortho unit from 07.02.2005 to 23.02.2005, and discharge summary was marked as Ex.P2. Thereafter, he took treatment at Saint Johns Medical College Hospital, Bangalore from 18.05.2005 to 08.06.2005, for which discharge summary was produced and marked as Ex.P3. In connection to that treatment, he took further two spell of

treatment from 12.05.2006 to 15.05.2006 and 04.09.2007 to 12.09.2007 in the above said hospital, for which, discharge summaries were marked as Exs.P4 & P5. Based upon the evidence of Exs.P2 to P5, discharge summaries, PW.2/Doctor had categorically stated that the claimant has suffered fracture injury on in his left leg and flexibility on the left knee was restricted.

5.Taking into consideration the above fact and the nature of injuries and that subsequently, the claimant took treatments at Saint Johns Medical College Hospital, Bangalore, it clearly visualised that minor boy had suffered incalculable injuries in the said accident. As per Ex.P7/Estimate Certificate, the Doctor has also stated that the boy's future marriage prospects are blinking and there is stiffness in his limbs and he could not cycle or run in future. Even he could not sit or stand for long time and he also attached Ex.P7/Estimate Certificate to the cost of Rs.65,000/- to perform surgery to the minor claimant by the Department of Plastic Surgery, Re-constructive Surgery and Burns.

6.Having regard to all the above injuries, the Tribunal awarded a sum of Rs.2,20,000/- towards his disability and for future expenses, pain and suffering, extra-nourishment and loss of amenities a total sum of Rs.2,20,000/- was granted and the Tribunal has also awarded a sum of Rs.40,000/- towards medical expenses. Considering the period of hospitalisation a sum of Rs.15,000/- towards Transportation and a sum of Rs.10,000/- towards Extra-nourishment are awarded by the Tribunal, which are fair and reasonable.

7.However, taking note of the date of the accident and the nature of the injuries, this Court is inclined to award another sum of Rs.45,000/- as a consolidated enhancement of compensation to the minor claimant.

8.In the result, the Civil Miscellaneous Appeal is partly allowed.

(i) The respondent is directed to deposit the sum of Rs.5,05,000/- award amount, awarded by the Tribunal and the balance amount of Rs.45,000/- to the minor claimant along with interest at the rate of 7.5% per annum, from the date of claim petition and till the date of payment.

(ii) On such deposit, the minor claimant's share shall be deposited in any one of the Nationalised Bank in any fixed deposit scheme renewable periodically and the interest thereon shall be withdraw by the Guardian once in three months.

(iii) The claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-

Asst.Registrar (CS II)

To

1.The Motor Accident Claims Tribunal
Additional District Judge,
Krishnagiri.

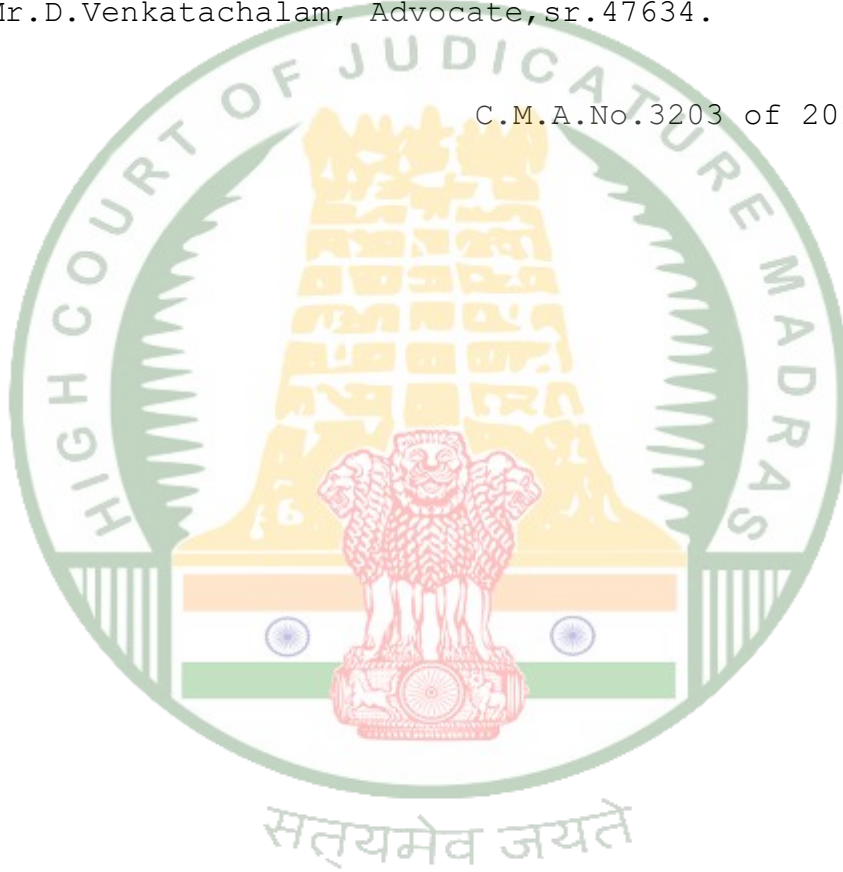
2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1 cc to Mr.Mukund R.Pandiyan, Advocate,sr.48199

+1 cc to Mr.D.Venkatachalam, Advocate,sr.47634.

pm(co)
krd 18/9

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