

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.229 of 2018

Vignesh (minor) ... Appellant/Petitioner
(Represented by his mother and
next friend Prema)

Vs.

The Managing Director,
Metropolitan Transport Corporation,
Pallavan Salai,
Chennai - 600 002. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 24.07.2017 made in M.C.O.P.No.1969 of 2014 on the file of Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Mr.R.Kalaiarasan

For 2nd Respondent : Mr.S.Sivakumar

JUDGMENT

The Civil Miscellaneous Appeal is filed by the appellant/claimant seeking enhancement of compensation granted by the Tribunal in the award dated 24.07.2017 made in M.C.O.P.No.1969 of 2014 on the file of Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

2.By consent of both parties, the appeal is taken up for final disposal at the admission stage itself.

3.The appellant is claimant in M.C.O.P.No.1969 of 2014 on the file of Motor Accident Claims Tribunal, III Small Causes Court, Chennai. He filed the said claim petition claiming a sum of Rs.7,00,000/- as compensation for the injuries sustained by

him in the accident that took place on 03.02.2014. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the bus belonging to the respondent Transport Corporation and directed the respondent-Transport Corporation to pay a sum of Rs.1,72,400/- as compensation to the appellant. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

4.The learned counsel appearing for the appellant contended that the Tribunal erred in reducing the percentage of disability without any valid reason. The Tribunal ought to have seen that P.W.2-Doctor has deposed the nature of injuries and percentage of disability. The appellant was minor at the time of the accident. The Tribunal erred in not awarding any amount for future prospects and loss of earning power. The amount awarded by the Tribunal under different heads are meagre and prayed for enhancement of compensation.

5.Per Contra, the learned counsel appearing for the respondent Transport Corporation contended that P.W.2-Doctor without properly appreciating the medical records has erroneously fixed percentage of disability at 50%. The Tribunal considering the evidence of P.W.2-Doctor and nature of injuries reduced the percentage of disability to 30% and arrived at compensation. The amount awarded by the Tribunal under different heads are not meagre and prayed for dismissal of the appeal.

6.Heard the learned counsel appearing for the appellant as well as respondent/Transport Corporation and perused all the materials available on record.

7.From the materials available on record, it is seen that P.W.2-Doctor after considering the medical records and examining the appellant, has certified that appellant has suffered 50% disability. The Tribunal reduced percentage of disability to 30% on the ground that P.W.2-Doctor has not filed calculation details of disability. In view of the above, the Tribunal has reduced percentage of disability from 50% to 30% which is not correct. The appellant is entitled to Rs.1,50,000/- at the rate of Rs.3,000/- per percentage for 50% disability. The amounts awarded by the Tribunal under other heads are hereby confirmed. Thus the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of studies	10,000	10,000	Confirmed
2.	Attender charges	2,000	2,000	Confirmed
3.	Transport	5,000	5,000	Confirmed
4.	Extra nourishment	10,000	10,000	Confirmed
5.	Damages to cloth	1,000	1,000	Confirmed
6.	Medical bills	4,400	4,400	Confirmed
7.	Mental shock and agony	10,000	10,000	Confirmed
8.	Pain and suffering	30,000	30,000	Confirmed
9.	Disability	90,000	1,50,000	Enhanced
10.	Loss of amenities	10,000	10,000	Confirmed
	Total	Rs.1,72,400/-	Rs.2,32,400/-	Enhanced by Rs.60,000/-

8. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,72,400/- is hereby enhanced to Rs.2,32,400/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant-claimant is directed to pay necessary Court fee, if any, on the enhanced compensation. The respondent-Transport Corporation is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. The appellant, being a minor, the award amount is directed to be deposited in any of the Nationalized Bank, till the minor appellant attains majority. The mother of the minor appellant is permitted to withdraw the accrued interest, once in three months for the welfare of the minor. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

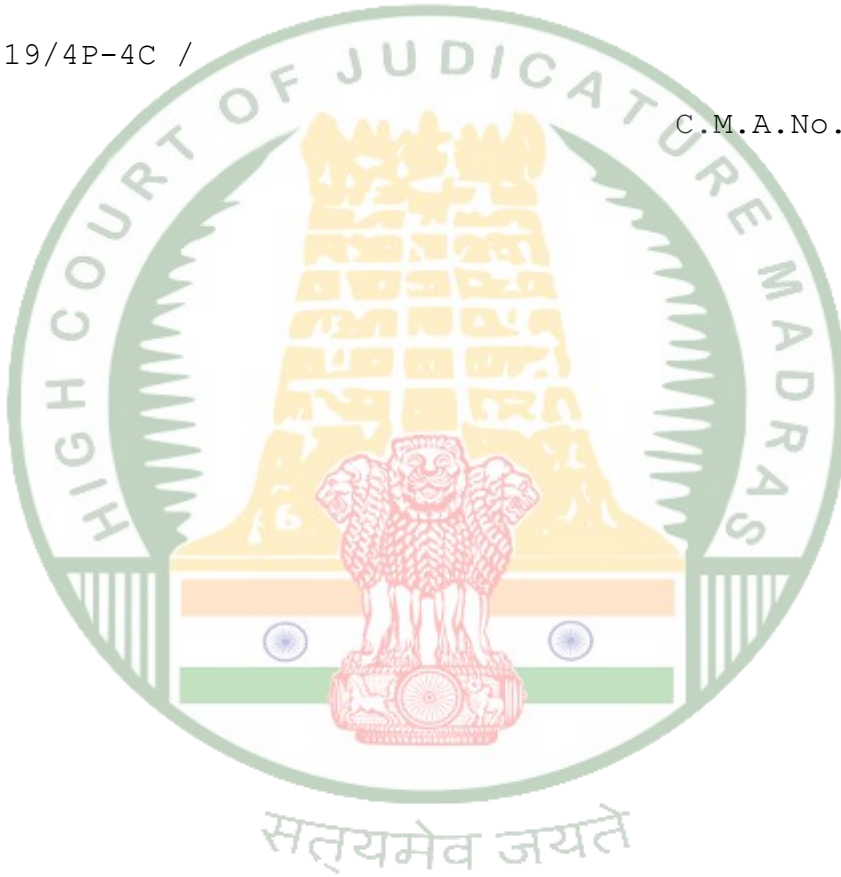
To

The III-Judge Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.

+1 cc to M/s.N.M.Muthurajan, Advocate Sr.No. 20694
+1 cc to M/s.S.Sivakumar, Advocate, Sr.No.21266

AKM/07.11.19/4P-4C /

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