

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 24.02.2020
CORAM:
THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN
C.M.A.No.3521 of 2013

Vithya

...Appellant/Petitioner

..Vs..

The Managing Director,
Metropolitan Transport Corp. Ltd.,
Pallavan House, Anna Salai,
Chennai-2.

...Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the fair and decreetal order passed in M.C.O.P.No.466 of 2005, dated 02.08.2010, on the file of the Motor Accident Claims Tribunal, Additional District Judge, (Fast Track Court No.III), Tiruvallur.

For Appellant : K.Kannisha for
Mr.G.K.Karthikeyan
For Respondent : Mr.S.Sivakumar

JUDGMENT

The appellant is the claimant in M.C.O.P.No.466 of 2005 on the file of the Additional District Judge, Fast Track Court No.III, Tiruvallur. She filed the above claim petition seeking compensation of Rs.5,00,000/- for the injuries sustained by her in a road accident on 29.08.2002.

2.The brief facts of the case of the appellant/claimant is as follows:

On 29.08.2002 at about 08.45 AM, the appellant was riding her bicycle on Velacherry Main Road, Medavakkam near Sivasakthi rice mill. At that time, a Metropolitan Transport Corporation bus bearing registration No.TN-01-N-3487 belonging to the respondent came in a high speed and dashed against the appellant. As a result, the appellant sustained grievous injuries. Immediately, she was rushed to the hospital for treatment. According to the appellant/claimant, the rash and negligent driving of the driver of the Chennai Metropolitan Transport Corporation bus was the cause of the accident and they are liable to pay compensation to the claimant.

3.The respondent contested the claim petition. The learned Additional District Judge, Fast Track Court No.III, Tiruvallur,

after analysing the evidence on record, awarded compensation of Rs.15,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the appellant/claimant.

4. Not satisfied with the quantum of compensation awarded by the tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Learned counsel appearing for the appellant would contend that the compensation of Rs.15,000/- awarded by the tribunal is very meager, especially, when the injured was a girl aged 19 years. He relied on the decision in Kishan Gopal and another v. Lala and others reported in 2013 (5) CTC 212 (SC) and contended that the Honourable Supreme Court had awarded a sum of Rs.5,00,000/- for a student aged 10 years, who died in a road accident that took place on 19.07.1992.

6. Per contra, learned counsel appearing for the respondent would contend that, awarding a sum of Rs.15,000/- is very reasonable and needs no interference.

7. A perusal of the records shows that the appellant/claimant was a 19 years old girl and was a student on the date of the accident. Though Dr. J. R. R. Thiyagaraj (PW2) has assessed the partial permanent disability as 90%, which is evident through Ex. P6 the Tribunal did not accept the same and did not award any compensation towards disablement. Hence, this Court, by taking into account the nature of injury sustained and also the age of the girl, is inclined to award a sum of Rs.50,000/- towards "disability". The Tribunal did not award any amount towards "loss of income". The injured girl was a student and the injury which had occurred might have prevented her for at least 2 years from doing normal work. Hence, this Court awards a sum of Rs.72,000/- (3000 X 24) under the same head. The Tribunal did not award any amount towards "pain and sufferings", "attender charges", "Nutrition", "transportation" and "loss of amenities". This Court awards a sum of Rs.10,000/-, Rs.5,000/-, Rs.5,000/-, Rs.4,000/- and Rs.5,000/- respectively towards those heads. The Tribunal has awarded a sum of Rs.15,000/- towards "medical expenses", which is just and reasonable and the same is confirmed hereby. The enhanced compensation under various heads are extracted hereunder:

S.No	Head	Amount granted
1.	Permanent disability	Rs.50,000/-
2.	Pain and sufferings	Rs.10,000/-
3.	Transportation	Rs.4,000/-

S.No	Head	Amount granted
4.	Nutrition	Rs.5,000/-
5.	Loss of income	Rs.72,000/-
6.	Loss of amenities	Rs.5,000/-
7.	Medical expenses	Rs.15,000/-
8.	Attender's charges	Rs.5,000/-
Total		Rs.1,66,000/-

Thus, the appellant/claimant is entitled for a sum of Rs.1,66,000/-, which shall carry interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

7.In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The quantum awarded by the tribunal is enhanced from Rs.15,000/- to Rs.1,30,000/-.

(iii) The appellant/claimant is directed to pay the court fee for the enhanced compensation, if any, and the Registry is directed to draft the decree only after the payment of court fee.

(iv) The respondent-Chennai Metropolitan Transport Corporation is directed to deposit the enhanced compensation amount (less the amount already deposited by them) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.466 of 2005, dated 02.08.2010, on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court No.III, Tiruvallur, within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made by the respondent, the appellant/claimant is at liberty to withdraw the same after following due process of law.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

sbn

To

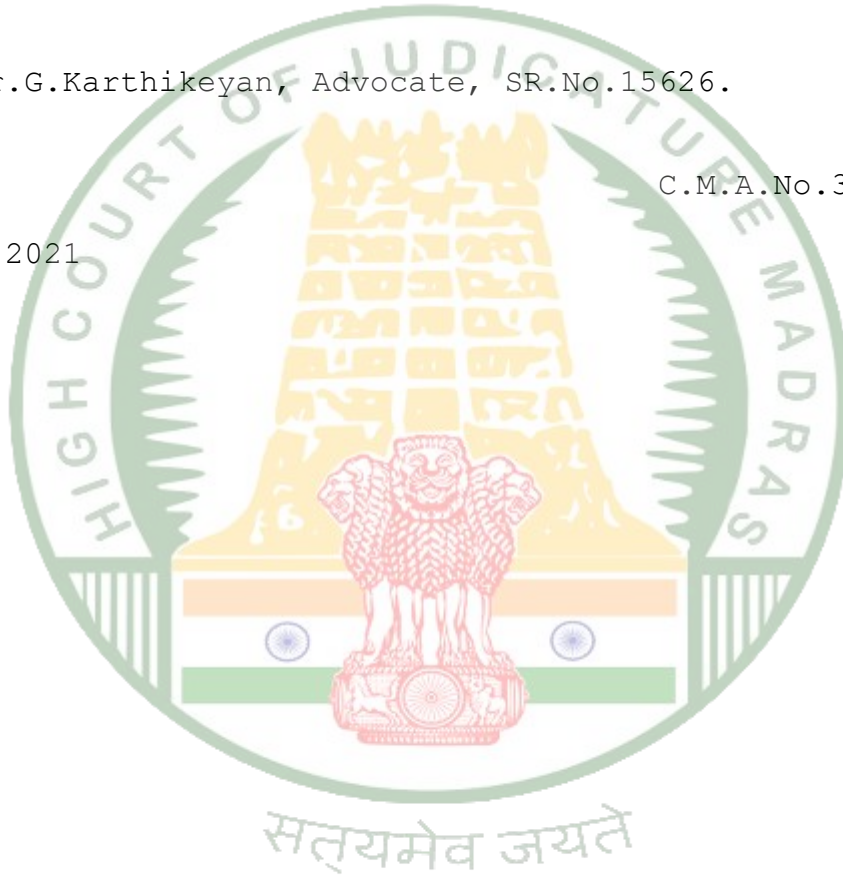
The Motor Accidents Claims Tribunal,
Additional District Judge,
Fast Track Court No.III,
Tiruvallur.

Copy to: The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.G.Karthikeyan, Advocate, SR.No.15626.

C.M.A.No.3521 of 2013

GJ(CO)
CSR 27.04.2021



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