

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.269 of 2014
and M.P.No.1 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Salamedu,
Villupuram.

...Appellant/ Respondent

vs.

Minor.Soundariya
represented by her father
and natural guardian Elumalai ...Respondent/ Claimant

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 28.01.2013 made in M.C.O.P.No.187 of 2008 on the file of the Motor Accident Claims Tribunal, Subordinate Judges Court, Gingee.

For Appellant : Mr.C.S.K.Sathish

For Respondent : Mr.C.Munusamy

JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the Appellant Insurance Company challenging the Award dated 28.01.2013 passed by the Motor Accident Claims Tribunal, Subordinate Judges Court, Gingee, in M.C.O.P.No.187 of 2008.

2.Heard Mr.C.S.K.Sathish, learned counsel for the Appellant and Mr.C.Munusamy, learned counsel for the respondent.

3.A minor girl by name Soundariya aged 4 years sustained injuries on 21.07.2008 as a result of an accident caused by a bus owned by the Appellant Transport Corporation. Soundariya represented by her father and natural guardian preferred a claim against the Appellant Transport Corporation in M.C.O.P.No.187 of 2008 seeking compensation.

4.The Motor Accident Claims Tribunal under the impugned Award has directed the Appellant Transport Corporation to pay the respondent a compensation of Rs.6,78,000/- together with interest and cost.

5.The details of the compensation awarded by the Tribunal under the impugned Award are as follows:

Permanent disability	-	Rs.3,78,000/-
Pain and suffering	-	Rs.50,000/-
Loss of Marital prospects	-	Rs.1,00,000/-
Future medical expenses	-	Rs.75,000/-
Loss of future happiness	-	Rs.25,000/-
Transport, extra nourishment and attender charges	-	Rs.50,000/-

Total		Rs.6,78,000/-

6.The Appellant Transport Corporation aggrieved by the quantum of compensation awarded by the Tribunal has preferred this appeal.

7.The respondent/claimant sustained grievous injuries and her left leg was amputated due to the injuries sustained by her as a result of the accident. She has also suffered injuries all over her body. The Tribunal has assessed the notional monthly income of the respondent/claimant at Rs.3,000/- and has adopted 15 multiplier since the respondent/claimant was 4 years old at the time of the accident.

8.Before the Tribunal, the respondent/claimant has filed 7 documents which were marked as Exs.A1 to A7 and three witness were examined on her side namely, Mr.Elumalai, father of the respondent as PW1, an eye witness to the accident as PW2 and the Doctor who examined her as PW3. On the side of the Appellant Transport Corporation, neither any document was filed nor any witness examined before the Tribunal.

9.The Doctor (PW3) who examined the respondent/claimant has assessed the disability of the respondent/claimant at 70%. The Tribunal adopted the multiplier method and has awarded a disability compensation of Rs.3,78,000/- under the impugned Award. The injuries sustained by the respondent/claimant has been proved through Exs.A2, A3, A5 and A6. The nature of injuries sustained by the respondent/claimant has also not been disputed by the Appellant Transport Corporation before the Tribunal.

10.No contra evidence has been produced by the Appellant Transport Corporation before the Tribunal to disprove the nature of injuries sustained by the respondent/claimant as disclosed in the disability certificate (Ex.A6) issued by the

Doctor. Having got her left leg amputated, the respondent/claimant is entitled for the disability compensation of Rs.3,78,000/- awarded by the Tribunal under the impugned Award and there is no scope for interference in respect of the said amount, as the disability compensation cannot be considered to be excessive.

11.The Tribunal has also awarded Rs.50,000/- towards pain and suffering, Rs.1,00,000/- towards loss of marital prospects, Rs.75,000/- towards future medical expenses, Rs.25,000/- towards loss of future happiness and Rs.50,000/- towards transportation, extra nourishment and attender charges in all put together Rs.6,78,000/- has been awarded by the Tribunal under the impugned Award.

12.Having sustained grievous injuries and having got her left leg amputated, the compensation awarded by the Tribunal cannot be considered to be excessive as alleged by the Appellant Transport Corporation. Having suffered amputation of her left leg, the loss of marital prospects awarded by the Tribunal is a correct assessment. The accident happened in the year 2008. After giving due consideration to the aforementioned factors, this Court is of the considered view that the compensation awarded by the Tribunal cannot be considered to be excessive.

13.For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal.

14.Accordingly, the appeal shall stand dismissed. The Appellant Transport Corporation is directed to deposit the amount awarded by the Tribunal, after deducting the amount already deposited if any, together with interest at the rate of 7.5% from the date of the claim till the date of realization to the credit of M.C.O.P.No.187 of 2008, on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Gingee, within a period of four weeks from the date of receipt of a copy of this Judgment. Since the respondent/claimant being a minor, her award amount shall be deposited in any nationalised bank till she attains majority. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1.The Motor Accidents Claims Tribunal,
Subordinate Judge Court, Gingee.

Copy to

The Section Officer,
Vernacular Section,
Madras High Court.

C.M.A.No.269 of 2013

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