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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.7.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CIVIL MISCELLANEOUS APPEAL NO.1541 OF 2016

&

CROSS OBJECTION NO.76 OF 2017 & CMP.NO.11697 OF 2016

The Managing Director, Tamil Nadu
State Transport Corporation,
Villupuram

...Appellant in
CMA & Respt.
In Cross Obj.

Vs

Minor Vishali rep.by guardian
father Lakshmanan

...Respondent
in CMA & cross
objector in
Cross Obj.

APPEAL under Section 173 of the Motor Vehicles Act, 1988 and Cross Objection under order 41 Rule 22 of the CPC against the fair and decretal order dated 17.3.2015 in MCOP.No.391 of 2011 on the file of the Motor Accidents Claims Tribunal (Subordinate Court), Chidambaram.

For Transport Corporation : Mr.K.J.Sivakumar

For Claimant : Mr.A.Murugan

COMMON JUDGMENT

I have heard the learned counsel for the Transport Corporation and the learned counsel appearing for the claimant.

2. CMA.No.1541 of 2016 has been filed by the Transport Corporation challenging the award dated 17.3.2015 in MCOP.No.391 of 2011 passed by the Motor Accidents Claims Tribunal (Subordinate Court), Chidambaram (hereinafter called the Tribunal).

3. The very same award has been challenged by the claimant by filing Cross Objection No.76 of 2017 and she has sought for enhancement.



4. The Transport Corporation has challenged the impugned award questioning the quantum of compensation awarded by the Tribunal.

5. The claimant has filed the cross objection seeking enhancement of compensation.

6. The claimant was aged 7 years at the time of accident. Her left leg has been amputated as a result of the accident caused on 05.3.2011 by a bus owned by the Transport Corporation. The nature of injuries sustained by the claimant and her amputation have also not been disputed by the Transport Corporation before the Tribunal. The Tribunal awarded a total compensation of Rs.6,25,000/- to the claimant under the impugned award as detailed hereunder :

S.N o.	Heads	Amount awarded by the Tribunal
1	Permanent disability	Rs. 2,80,000/-
2	Pain and sufferings	Rs. 1,00,000/-
3	Artificial leg fixation (medical expenses)	Rs. 1,00,000/-
4	Transport	Rs. 20,000/-
5	Nutrition	Rs. 15,000/-
6	Attendant charges	Rs. 10,000/-
7	Loss of amenities (marriage prospects)	Rs. 1,00,000/-
	Total	Rs. 6,25,000/-

7. The Tribunal has not adopted multiplier method for assessing the compensation towards permanent disability as a result of the injuries sustained by the claimant due to the accident. Having lost one of her legs, this Court is of the considered that the Tribunal ought to have adopted the multiplier method for assessing the compensation towards permanent disability. The accident occurred in the year 2011. The Tribunal fixed the notional monthly income of the claimant at Rs.4,000/-, which, in the considered view of this Court, is low. If the year of accident was taken into consideration, the notional monthly income would have been fixed at a much higher sum.



8. The Hon'ble Supreme Court, in the case of Syed Sadiq & Others Vs. Divisional Manager, United India Insurance Co. Ltd. [reported in 2014 ACJ 627], fixed the notional monthly income of a vegetable vendor at Rs.6,500/- for an accident that took place in the year 2008. The claimant being a minor aged 7 years at the time of accident, if the same yardstick was taken into consideration, the Tribunal ought to have fixed the notional monthly income at least at Rs.6,500/-. Since the notional monthly income fixed by the Tribunal at Rs.4,000/- is too low, this Court enhances the notional monthly income of the claimant to Rs.6,500/-.

9. The doctor assessed the disability of the claimant at 70% based on the injuries sustained by her and it is confirmed by this Court. Since multiplier method is being adopted by this Court and since the notional monthly income of the claimant is enhanced to Rs.6,500/, the compensation payable towards her permanent disability is reassessed by this Court at Rs.8,19,000/- (Rs.6,500/- X 12 X 15 X 70/100).

10. With regard to compensation awarded by the Tribunal under various other heads namely artificial leg fixation (medical expenses), transport, nutrition, attendant charges and loss of amenities (marriage prospects), the same will have to be necessarily enhanced by this Court. Accordingly, this Court enhances the compensation towards artificial leg fixation (medical expenses) from Rs.1,00,000/- to Rs.1,50,000/-, towards transport from Rs.20,000/- to Rs.25,000/-, towards nutrition from Rs.15,000/- to Rs.25,000/-, towards attendant charges from Rs.10,000/- to Rs.25,000/- and towards loss of amenities (marriage prospects) from Rs.1,00,000/- to Rs.2,00,000/-. However, the compensation awarded by the Tribunal towards pain and sufferings at Rs.1,00,000/- is confirmed by this Court.

11. For the foregoing reasons, the total compensation awarded by the Tribunal at Rs.6,25,000/- is enhanced to Rs.13,44,000/- as detailed hereunder :

S. No	Heads	Amount awarded by the Tribunal	Amount enhanced by this Court
1	Permanent disability	Rs.2,80,000/-	Rs. 8,19,000/-
2	Pain and sufferings	Rs.1,00,000/-	Rs. 1,00,000/-



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S. No	Heads	Amount awarded by the Tribunal	Amount enhanced by this Court
3	Artificial leg fixation (medical expenses)	Rs. 1,00,000/-	Rs. 1,50,000/-
4	Transport	Rs. 20,000/-	Rs. 25,000/-
5	Nutrition	Rs. 15,000/-	Rs. 25,000/-
6	Attendant charges	Rs. 10,000/-	Rs. 25,000/-
7	Loss of amenities (marriage prospects)	Rs. 1,00,000/-	Rs. 2,00,000/-
	Total	Rs. 6,25,000/-	Rs.13,44,000/-

12. In view of the enhancement of the award, there is no merit in the appeal filed by the Transport Corporation.

13. In the result, Cross Objection No.76 of 2017 filed by the claimant is partly allowed. CMA.No.1541 of 2016 filed by the Transport Corporation is dismissed. No costs. Consequently, the connected CMP is also dismissed.

14. The Transport Corporation is directed to deposit the entire award amount as determined by this Court in this appeal together with interest and costs at the rate of 7.5% per annum from the date of petition till date of realization less the amount already deposited to the credit of the claim petition within two weeks from the date of receipt of a copy of this judgment. It is made clear that on deposit of the entire award amount to the extent indicated in this judgment, the claimant is permitted to withdraw the entire award amount after she attains majority and if any such application is made by the claimant after she attains majority, the Tribunal is directed to transfer the entire award amount together with interest lying to the credit of the claim petition directly to the bank account of the claimant through RTGS. The court fee on the enhanced compensation amount shall be paid by the cross objector in Cross Obj.No.76 of 2017 - claimant before receiving the copy of this judgment.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal
(Subordinate Court), Chidambaram.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.36205

+1cc to Mr.A.Murugan, Advocate, S.R.No.37025

CMA.No.1541 of 2016 &
Cross Obj.No.76 of 2017 &
CMP.No.11697 of 2016

RSI (CO)
CS/08/11/2021