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C.M.A.No.2702 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

Civil Miscellaneous Appeal No.2702 of 2021

Minor Naveen

Represented by his father Sankar,
residing at No.32, Vel Nagar, 2nd Street,
Chennai – 600 095. ... Appellant/Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House, Anna Salai,
Chennai – 600 002. ... Respondent/Respondent

Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988, against the Award and Decree, dated 19.02.2021
made in M.C.O.P.No.7240 of 2017 on the file of the Motor Accidents
Claims Tribunal, IV Judge, Small Causes Court, Chennai.

For Appellant : Mr. K. Varadha Kamaraj
For Respondent : Mr. M.Murali Vinodh,
Senior Counsel, MTC

JUDGMENT

The Civil Miscellaneous Appeal has been filed by the minor



C.M.A.No.2702 of 2021

claimant challenging the Award passed in M.C.O.P.No.7240 of 2017, dated 19.02.2021, on the file of the Motor Accidents Claims Tribunal, IV Judge, Small Causes Court, Chennai, for enhancement of compensation.

2. The parties are referred to herein according to their litigative status and ranking before the Tribunal.

3. The facts leading to filing of this case is that on 12.09.2017 at about 8.30 hours when the minor petitioner was travelling as a passenger of the Corporation Bus bearing Registration No.TN 01 AN 1559 standing on front side foot board, the bus was reached near Rationshop Bus Stop, P.H.Road, Maduravoyal, Chennai, the bus driver drove it in rash and negligent manner with high speed and put sudden break, which resulted in the minor petitioner has sustained multiple grievous injuries. Immediately, he was taken to the Government K.M.C.Hospital, Kilpauk, Chennai and taking further treatment in private hospitals, Chennai. After discharged from the Hospital, the minor petitioner has come forward with this claim petition under Section 166 of the Motor Vehicles Act and Rule 3 of the Motor Accident Claims Tribunal Rules claiming compensation of Rs.10,00,000/-



for the injuries sustained by him.

WEB COPY

4. The respondent-Transport Corporation filed counter and contended that the driver of the bus drove it in normal speed but the students were pushing each other and one of the student was slipped by uncontrollable balance of the other students and fell down from the bus and caused the accident. Hence the bus driver is not responsible for the accident and the respondent is not liable to pay the compensation to the petitioner and prays to dismiss the claim.

5. The Tribunal based on the evidence placed on record, in Point No.1 has held that the negligent act of the driver of the bus is responsible for causing injuries to the petitioner and the Tribunal has quantified the compensation and awarded a sum of Rs.2,24,500/- as compensation payable to the petitioner along with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of realisation.

6. Aggrieved over the quantum of compensation awarded by the



C.M.A.No.2702 of 2021

Tribunal, the minor claimant has approached this Court seeking enhancement of compensation.

7. The only grievance raised by the learned counsel for the minor claimant is that the compensation awarded under the head loss of earning capacity has not been properly awarded and prays to enhance the same. He has also relied on the Division Bench Judgment of this Court in ***Hariharan vs. Kamaraj and another [2022 (2) TN MAC 183]***.

8. The learned counsel for the Transport Corporation has submitted that based on the evidence placed on record and as per the norms followed by this Court the compensation has been properly awarded to the minor claimant and hence no further enhancement is required in this case and prays to dismiss the appeal.

9. I have considered the rival submissions made on both sides and also perused the records available on record.



C.M.A.No.2702 of 2021

10. The claimant herein is aged about 15 years and was studying IX standard and the Tribunal has fixed a sum of Rs.5,000/- as notional income and awarded compensation under the head functional disability. In this case, the claimant herein has sustained *Type IV epiphyseal injury of medical condyle of right femur and fracture in right distal femur* and surgery was also done by implanting plate and screws and skin grafting was also done and the claimant did not subjected to himself before the Medical Board for assessing the disability and considering all these facts the Tribunal has fixed the disability sustained by the minor claimant as 15% functional disability. This Court is inclined to fix the notional income of the minor claimant as Rs.10,000/- considering the year of accident. The Tribunal has properly applied multiplier '18' as per the Judgment of the Hon'ble Apex Court in ***Sarla varma and Ors vs. Delhi Transport Corporation and Another [AIR 2009 SC 3104]*** case. The Tribunal has not awarded future prospects since the claimant is also entitled for future prospects as held by the Hon'ble Apex Court in ***Jagdish vs. Mohan and Others [(2018) 4 SCC 571]*** and ***Erudhaya Priya vs. State Express Transport Corporation Ltd., [2020 INSC 466 SC Website]*** and accordingly 40% is awarded as future prospects. Accordingly, under the head functional



disability is modified to Rs.3,24,000/- [10000 x 12 x 18 x 15%].

Additionally 40% of Rs.3,24,000/- i.e., Rs.1,29,600/- is added as future prospects.

11. As far as the compensation awarded by the Tribunal under other heads are concerned, there is no infirmity in the said finding and the same are just and reasonable and the same is hereby confirmed.

12. Thus the compensation awarded by the Tribunal under various heads are hereby modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Functional Disability	Rs.1,62,000/-	Rs.3,24,000/-	Enhanced
2.	Future Prospects	---	Rs.1,29,600/-	Granted
3.	Pain and Sufferings	Rs.15,000/-	Rs.15,000/-	Confirmed
4.	Extra Nourishment	Rs.10,000/-	Rs.10,000/-	Confirmed
5.	Transportation	Rs.10,000/-	Rs.10,000/-	Confirmed
6.	Damages to clothes	Rs.1,000/-	Rs.1,000/-	Confirmed
7.	Attender Charges	Rs.16,500/-	Rs.16,500/-	Confirmed
8	Loss of Amenities	Rs.10,000/-	Rs.10,000/-	Confirmed
	Total	Rs.2,24,500/-	Rs.5,16,100/-	Enhanced by Rs.2,91,600/-



C.M.A.No.2702 of 2021

WEB COPY

13. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is at Rs.2,24,500/- is hereby enhanced to Rs.5,16,100/- [Rupees Five Lakhs Sixteen Thousand and Hundred only] together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The respondent/Transport Corporation is directed to deposit the 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 to the credit of M.C.O.P.No.7240 of 2017, on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai. Since the claimant is a minor, the compensation amount is directed to be deposited in any one of the Nationalized Bank till the minor appellant/claimant attains majority. On such deposit, the father of the minor appellant/claimant is permitted to withdraw the accrued interest once in three months for the welfare of the minor appellant. In other aspects, the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.



C.M.A.No.2702 of 2021

13.12.2023

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Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No

To:

1. The IV Judge, Small Causes Court,
Motor Accidents Claims Tribunal,
Chennai.
2. The Section Officer,
V.R.Section,
High Court,
Chennai.

K.RAJASEKAR,J.

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C.M.A.No.2702 of 2021



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C.M.A.No.2702 of 2021

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