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C.M.A.Nos.1285 and 1286 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:22.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.Nos.1285 and 1286 of 2023

Lanika Aafrin, Minor

(Represented by her father and next friend Noorul Sheik)

No.32, Arul Nagar,

Kattupakkam,

Chennai- 600 06.

.. Appellant in C.M.A.No.1285 of
2023

Noorjahan

.. Appellant in C.M.A.No.1286 of
2023

..Vs..

The Managing Director,

Metropolitan Transport Corporation Ltd (MTC)

Pallavan Saslai,

Chennai-2.

.. Respondent in both C.M.A.'s

Prayer in both C.M.A.'s: These Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 27.02.2023 made in M.C.O.P.Nos.2646 and 6751 of 2018, on the file of Motor Accidents Claims Tribunal, IV Court of Small Causes,



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For Appellants : Mr.R.Mohan Babu
(in both C.M.A.'s)

For Respondents : Mr.M.Murali Vinodh
(in both C.M.A.'s)

COMMON JUDGMENT

Since the claim pertains to very same accident, these Civil Miscellaneous Appeals are taken up together and disposed of vide this common judgment.

2. These Appeals have been filed by the Appellants/Claimants, challenging the Award dated 27.02.2023 passed by the Motor Accident Claims Tribunal, IV Court of Small Causes, Chennai in M.C.O.P.Nos.2646 and 6751 of 2018 respectively.

3. The Appellants are the Claimants in M.C.O.P.Nos.2646 and 6751 of



2018 on the file of *Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai*. They filed the above said claim petition, claiming a sum of **Rs.6,00,000/-** and **Rs.1,00,000/-** respectively as compensation in respect of the injuries sustained by them, in an accident that occurred on 24.02.2018.

4.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the bus bearing Registration No.TN-01-N-4703, belonging to the Respondent-Transport Corporation and directed the Respondent-Transport Corporation to pay a sum of **Rs. 91,500/-** and **Rs.25,000/-** to the Claimants respectively.

5.Not being satisfied with the amount awarded by the Tribunal, the Appellants have come out with the present appeals seeking enhancement of compensation.

6.The learned counsel for the Appellants contended that due to the aforesaid accident, claimant in M.C.O.P.No.2646 of 2018, sustained grievous injuries, for which she was hospitalized for 17 days and two surgeries were



done and though the Doctor assessed partial permanent disability @ 30% , the Tribunal without considering the same, has fixed the disability only @ 5%. He further submitted that considering the nature of injuries, the Tribunal ought to have awarded compensation towards ***Future Medical Expenses*** and the compensation awarded by the Tribunal under other heads is also very low and the same needs to be enhanced.

7. As far as Claimant in M.C.O.P.No.6751 of 2018 is concerned, the learned counsel appearing for the Appellant/Claimant submitted that the Tribunal without considering the medical records filed, has awarded a sum of Rs.25,000/- as compensation which is very low and therefore prays for enhancement.

8.Per contra, learned counsel appearing for the Respondent-Transport Corporation contended that the Tribunal on considering the oral and documentary evidence has rightly awarded compensation to both the Appellants/Claimants and the Appellants have not made out the case for enhancement. However, he fairly admitted that the disability fixed by the Tribunal is very low and 20% may be fixed as disability.



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9. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the Respondent-Transport Corporation and perused the entire materials on record.

10. As far as Appellant in C.M.A.No.1285 of 2023, who is the Claimant in M.C.O.P.No.2646 of 2018 is concerned, the Claimant who is a minor sustained multiple injuries and fractures and was hospitalized for 17 days and though P.W.3-Doctor has assessed disability @ 30%, the Tribunal taking note of the fact that the assessment was not done by Medical Board has fixed disability only @ 5%, which in the opinion of this Court is very low and therefore, this Court deems it fit to fix the disability @ 22%. Accordingly, the disability with respect to the injuries sustained by the Appellant is fixed @ 22% and by taking 5,000/- per percentage, a sum of Rs.1,10,000/- is awarded under the head Disability. Considering the nature of injuries sustained, a sum of Rs.25,000/- is awarded towards Future Medical Expenses.

11. The amounts awarded by the Tribunal under other heads are just



and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is re-determined as follows:

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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced, reduced or granted
1.	Disability	25,000/-	1,10,000/-	Enhanced
2.	Medical Expenses	10,838/-	10,838/-	Confirmed
3.	Pain and Suffering	20,000/-	20,000/-	Confirmed
4.	Transportation Expenses	5,000/-	5,000/-	Confirmed
5.	Nutrition Expenses	10,000/-	10,000/-	Confirmed
6.	Damages to Clothes	2,000/-	2,000/-	Confirmed
7	Attender charges	8,500/-	8,500/-	Confirmed
8	Future Medical Expenses	25,000/-	25,000/-	Granted
9	Loss of Amenities	10,000/-	10,000/-	Confirmed
	Total	Rs.91,338/- Rs.91,500/- (Rounded off)	Rs.2,01,338/- Rs.2,01,500/- (Rounded off)	Enhanced by Rs.1,10,000/-

12. As far as C.M.A.No.1286 of 2023 is concerned, this Court is of the view that the comensation awarded by the Tribunal to the claimant under



various heads is very low and therefore the overall compensation awarded by the Tribunal is enhanced from Rs.25,000/- to Rs.30,000/-

13. In the result:

(a) C.M.A.No. 1285 of 2023 is partly allowed and the compensation awarded by the Tribunal at Rs.91,500/- is hereby enhanced to Rs.2,01,500/- together with interest at the rate of 7.5% per annum from the date of 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.2646 of 2018** on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai. On such deposit being made, as the Appellant/Claimant is a minor, the Tribunal is directed to deposit the compensation amount in any one of the nationalized banks under the Fixed Deposit scheme, till she attains majority and her father, who is the natural guardian is entitled to withdraw the interest once in three months and utilise the same for the welfare of the minor claimant.



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(b) C.M.A.No. 1286 of 2023 is partly allowed and the compensation awarded by the Tribunal at Rs.25,000/- is hereby enhanced to Rs.30,000/- together with interest at the rate of 7.5% per annum from the date of 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.6751 of 2018** on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai. On such deposit being made, the Tribunal is directed to transfer the amount, directly to the Bank account of the Appellant/Claimant through RTGS, within a period of **three weeks** thereafter.

14. The Civil Miscellaneous Appeals are allowed in part in the aforesaid terms. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

22.01.2024

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Index : Yes / No

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To

1. The Managing Director,
Metropolitan Transport Corporation Ltd (MTC)
Pallavan Saslai,
Chennai-2.
2. The Motor Accidents Claims Tribunal, IV Court of Small Causes,
Chennai.
3. The Section Officer,
VR Section,
High Court,
Madras.



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KRISHNAN RAMASAMY, J.

arr

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