
(2015) 03 MAD CK 0470

In the Madras High Court

Case No : CMA (MD) No. 1046 of 2008 and M.P. (MD) No. 1 of 2008

Tamil Nadu State Transport Corporation (Coimbatore) Ltd.

APPELLANT

Vs

Mohammed Areef and Others

RESPONDENT

Date of Decision : 19-03-2015

Acts Referred:

Citation : (2015) 2 ACC 385

Hon'ble Judges : D. Hari Paranthaman, J

Bench : Single Bench

Advocate : D. Sivaraman for Rajnish Pathiyil, for the Appellant

Final Decision : Dismissed

Judgement

D. Hari Paranthaman, J.—Though the 1st respondent/minor claimant has not been served, in view of the order that is going to be passed after hearing the learned Counsel for the appellant, notice to claimant is not necessary. In an accident which occurred on 25.10.1998, Minor Mohammed Areef @ A. Nazer sustained crush injury in his right leg which resulted in amputation of right leg below knee. Representing the minor, his father filed a claim petition before the Motor Accident Claims Tribunal, Sub-Court, Tiruchirappalli, claiming compensation of Rs. 5,00,000. The appellant Transport Corporation company resisted the claim. However, the Tribunal awarded consolidated compensation of Rs. 4,00,000 with interest @ 9% per annum.

2. In the accident, the claimant sustained crush injury in his right leg. He took treatment as in patient in Government Hospital, Trichy, for two months. During treatment, his right leg below knee was amputated. The Doctor assessed the partial permanent disability sustained by the claimant at 85%. Upon consideration of the oral and documentary evidence, the Tribunal awarded compensation of Rs. 4,00,000 with interest @ 9% per annum.

3. The Hon'ble Apex Court in Kishan Gopal and Another Vs. Lala and Others, (2013) 3 ACC 878 : (2013) ACJ 2594 : (2013) 9 AD 193 : (2013) 5 CTC 212 :

(2013) 11 JT 563 : (2014) 1 PLR 276 : (2013) 4 RCR(Civil) 276 : (2013) 10 SCALE 580 : (2014) 1 SCC 244 , has held that the Tribunal cannot fix compensation in the cases of child victim like other claim cases and the Tribunal has to take into consideration the mental/physical shock, discomfort, inconvenience, hardship and loss of amenities, while considering the case of the child victim.

4. On perusal of the judgment, I am of the view that the compensation awarded to the claimant, cannot be said as excessive or bonanza warranting interference by this Court. Per contra, considering the amputation suffered by the claimant at the age of three years, the compensation awarded is too low. Further, no award has been made under the heads transportation, pain and suffering, medical expenses.

5. The appellant Transport Corporation is directed to deposit the entire award amount with proportionate accrued interest and costs less the amount already deposited, if any, to the credit of MCOP. No. 1097 of 1999 on the file of the Motor Accident Claims Tribunal, Sub-court, Tiruchirappalli within a period of four weeks from the date of receipt of a copy of this order, if already not deposited. On such deposit, the Tribunal is directed to deposit the same in any one of the Nationalised Banks in Fixed Deposit which shall be renewed periodically till the minor claimant attains majority. The father and guardian of the minor claimant is permitted to withdraw the interest accrued on the deposit once in three months directly from the bank. The Civil Miscellaneous Appeal is dismissed accordingly. No costs. Consequently, M.P. (MD) No. 1 of 2008 is closed.