

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2015

CORAM

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

C.M.A.No.1397 of 2010

G.Halilullah Sheriff (Minor)
rep. By his mother
Nazeema John ...Appellant/Petitioner

..vs..

1.J.Prakash
(remained ex-parte before Trial Court)

2.National Insurance Co. Ltd.,
No.751, Anna Salai,
Chennai-600 002. ...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the learned V Small Causes Court (Motor Accident Claims Tribunal), Chennai in MACT.O.P.No.5549 of 2004 dated 31.08.2009.

For Appellant : Mr.R.Kalaiarasan

For Respondent-2 : Ms.N.B.Surekha

JUDGMENT

The minor claimant/injured is the appellant herein.

2.The appeal is filed, claiming enhancement of the compensation of Rs.52,000/- as against the total claim of Rs.3 lakhs made in the claim petition.

3.The appellant/injured was on the date of accident, aged about 12 years and was studying in IV Standard. As per the medical records produced herein by way of Ex.P3/Discharge Summary, Ex.P4/Continuous treatment book issued by Government

General Hospital, Ex.P5/Scan Bills, Ex.P6/Consultation fee bills and Ex.P7/Pharmacy bills, the petitioner sustained compound fracture in the right leg and other lacerated injuries and was under treatment for nearly ten days in Government General Hospital, Madras. Though the fracture sustained by him resulted in disability in the fifth toe, the same has not resulted in any functional disability. Though P.W.2/Dr.Mathiazhagan deposed so in the witness box and issued Ex.P11/Disability Certificate, the same need not be placed much importance having regard to the nature of the injuries as evident from Ex.P8 photos. The petitioner did not also undergo any other physical sufferings due to the injuries sustained by him. The claimant was also treated in Government Hospital, Chennai. As such, no enhancement of medical expenses is warranted.

4.The petitioner was only a student on the date of accident. It is nobody's case that he was as a student carrying on some part time job and was earning income. It is also nobody's case that due to the injuries sustained by him, he was not able to continue the studies. It is also not made out that permanent disability sustained by him is likely to lead to functional disability of the total body, in turn resulting in loss of earning capacity in future. In the absence of one such case pleaded and proved, the question of awarding any amount towards loss of partial income or permanent income does not arise herein. Thus, for the discussions held above, this Court feels that the compensation awarded by the Tribunal is just, fair and reasonable.

In the result, the Civil Miscellaneous Appeal stands dismissed. Time for deposit of award amount if any is four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant/injured is permitted to withdraw the same by filing cheque petition. No costs.

DP

06.08.2015

This petition having been listed on Thursday, the twenty seventh day of August, 2015 under the caption for clarification in the presence of the above said Advocates, this court made the following order:

Today, the appeal is listed under the caption "for clarification".

2.On perusing the matter, this Court feels that no further clarification is necessary. Hence, the judgment

passed by this Court in C.M.A.No.1397 of 2010 dated 06.08.2015 stands confirmed.

DP

27.08.2015

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

To

1. The V Small Causes Court
Motor Accidents Claims Tribunal,
Chennai.

2. The Record Keeper,
V.R. Section,
High Court, Madras.

1 CC to Ms.N.B.Surekha, Advocate SR.No. 41158

1 CC to M/s. N.M. Muthurajan, Advocate SR.No. 41171

C.M.A.No.1397 of 2010

RSI (CO)
PSI (26.10.2015)

सत्यमेव जयते

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