

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2016

CORAM

THE HONOURABLE MR. JUSTICE T.RAJA

C.M.A. No.61 of 2016
and C.M.P. No.497 of 2016

The Divisional Manager,
M.s.National Insurance Co. Ltd.,
DO 110 JN Street,
Puducherry - 605 001. ... Appellant/Respondent II

versus

1.V.Vignesh (Minor)
(rep. by mother guardian
next friend V.Nathiya)

2.D.Muthukumar ... Respondents/Petitioner &
1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act,
1988 against the judgment and decree dated 14.07.2015 made in
M.C.O.P. No.2285 of 2013 on the file of the Motor Accidents
Claims Tribunal, (1st Additional Subordinate Judge), Cuddalore.

For appellant : Mr. J.Chandran

For respondents : Mr.R.Sreedhar for R1

JUDGMENT

The appeal is preferred by the Insurance Company/appellant
against the judgment and decree dated 14.07.2015 made in
M.C.O.P. No.2285 of 2013 on the file of the Motor Accidents
Claims Tribunal, (1st Additional Subordinate Judge), Cuddalore.

2. Background facts in a nutshell are as follows:

On 30.05.2013 at about 13.30 hours, while the minor claimant
was proceeding as a pillion rider in the Hero Honda Splendor
Motor cycle bearing Registration No.TN-31-AE-7182, driven by one
Gunasekaran from West to East, keeping extreme left of Pannai
Kuchipalayam to Thiruvandhipuram Road, when the vehicle was
nearing Iyyanarkoil, the second respondent's Tata Ace Goods
vehicle bearing registration No.TN-31-H-3331 came in a rash and
negligent manner and dashed against the minor claimant's motor
cycle, as a result, he sustained fracture and multiple grievous

injuries. After taking first aid treatment in Government Hospital, Cuddalore, he was admitted in Krishna Hospital, Cuddalore for further treatment as an in-patient and took treatment from 30.05.2013 to 04.06.2013. He was later treated in other private hospitals also. The claimant claimed a sum of Rs.5,00,000/- towards compensation. The appellant-Insurance Company resisted the said claim.

3. After considering the oral and documentary evidence, the Tribunal held that the accident occurred only due to the rash and negligent driving of the driver of the second respondent's vehicle and awarded a compensation of Rs.25,500/- with interest at 7.5% per annum, to be payable by the Insurance Company, from the date of petition. Aggrieved by that award, the appellant-Insurance Company has filed the present appeal.

4. Learned counsel appearing for the appellant-Insurance Company questioned only the quantum of compensation awarded by the Tribunal and contended that the amount awarded by the Tribunal is excessive, exorbitant, without basis and justification and that therefore, the award passed by the Tribunal is not in accordance with law and the same has to be set aside.

5. Learned counsel appearing for the first respondent/claimant submitted that the Tribunal had considered all the relevant materials and evidence on record and came to the right conclusion and awarded a just, fair and reasonable compensation. Hence, the order of the Tribunal is in accordance with law and the same has to be confirmed.

6. Heard both the learned counsel and perused the materials available on record.

7. Considering the fact that the mother of the minor claimant/P.W.1 has deposed that due to the accident, her minor son sustained grievous injuries and he is unable to work as he did before the accident, supported by Ex.P3/Discharge summary, issued by Government Hospital, Cuddalore and Ex.P4/Discharge Summary, issued by Krishna Hospital, Cuddalore and also considering the fact that the Doctor opined that the injuries are simple in nature and that there is no documentary evidence filed by the claimant, the Tribunal has awarded a sum of Rs.20,000/-, for laceration without injury, on the basis of Division Bench judgment of this Court reported in 2009(1) TNMAC 525. Therefore, this Court finds it reasonable to confirm the same, since the claimant was a minor, aged about 6 years at the time of accident. Hence, the same is confirmed. Similarly, a sum of Rs.2,000/- towards Transport to Hospital, Rs.2,000/- towards Extra Nourishment, Rs.1,000/- towards damage to clothing and articles and a sum of Rs.500/- towards attendant charges, awarded by the Tribunal, also cannot be found fault with since the claimant was taking treatment as inpatient from 30.05.2013

to 04.06.2013. That is also confirmed as it is. Thus, it is seen that the Tribunal has awarded a total compensation of Rs.25,500/-, which seems to be a reasonable amount and this Court is inclined to confirm the same. Therefore, confirming the impugned award, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Consequently, connected CMP. is closed.

8.Since the learned counsel for the appellant submitted that the appellant has deposited Rs.25,000/- towards statutory deposit, the balance amount is directed to be deposited along with accrued interest within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal is directed to deposit the same in any one of the nationalised Banks, till the Minor/Claimant attains majority. The guardian/Mother may be permitted to withdraw the accrued interest thereon.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vga

To

The I Additional Subordinate Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

+1cc to Mr.J.Chandran, Advocate, S.R.No.3568
+1cc to Mr.R.Sreedhar, Advocate, S.R.No.3405

C.M.A. No.61 of 2016

CTK(CO)
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