



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2016

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.337 of 2015

and

MP(MD)No.1 of 2015

Minor Ambika

Minor represented by her Father and

Natural Guardian Madasamy

: Appellant/Claimant

Vs.

1.R.Chandran

2.D.Pauldurai

3.M/s. Oriental Insurance Company Ltd.,

rep. By its Branch Manager,

H.P.O. Junction, Nagercoil,

Agasteeswaram Taluk,

Kanyakumari District.

: Respondents/Respondents

Prayer : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the award and decree of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Nagercoil, Kanyakumari District, dated 27.11.2006 and made in MCOP No.1 of 2003.

For Appellant

: M/s.A.Elis Chitra Devi

For R1 and R2

: No Appearance

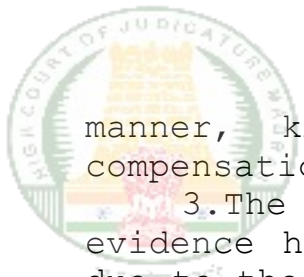
For 3rd respondent

: Mr.K.Bhaskaran

JUDGMENT

Being dissatisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal (Chief Judicial Magistrate), Nagercoil, in MCOP No.1 of 2003, dated 27.11.2006, the minor claimant has preferred this appeal seeking enhancement of compensation.

2.The appellant, who was studying 6th Standard on 11.03.2002 suffered injury in a motor vehicle accident, when she went to Milk Cooperative Society to buy milk. The case of the claimant is that when she was standing on the southern side of the milk society on Nagercoil-Tirunelveli Main Road, a motor cycle bearing registration No.TN-72-V-7878 came in a rash and negligent



manner, knocked down her. A petition was filed claiming compensation of Rs.3,00,000/-.

3.The Tribunal, on appreciation of oral and documentary evidence has come to the conclusion that the accident had caused due to the negligence of the driver of the motor cycle and awarded compensation of Rs.62,018/-. Since, the respondents have not challenged the award, this court need not go into the aspect of negligence.

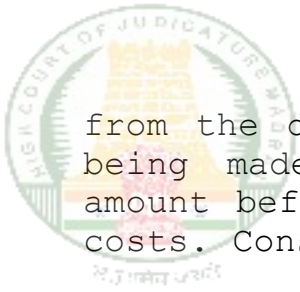
4.Heard the rival submissions and perused the materials available on record.

5.PW1 has deposed that his daughter has suffered fracture on the left leg and injuries on the head. PW2 Dr.J.Thiraviam has given evidence stating that on 11.03.2002, the claimant underwent surgery and after perusing the X-ray, he issued a disability certificate Ex.P10. Ex.P10 reveals that she suffered 10% permanent disability and the claimant has spent Rs.40,518/- towards medical expenses. The claimant has produced Ex.P6 wound certificate, Ex.P8 medical bills and Ex.P11 receipts for payment of fees and other expenses. The, tribunal has rightly awarded Rs.20,000/- towards pain and sufferings, Rs.40,518/- towards medical expenses, Rs.1,000/- towards transportation and Rs.500/- towards extra nourishment.

6.It is seen that the claimant is a girl student studying 6th Standard in a Government High Secondary School, Perumalpuram and she suffered permanent disability of 10% at her tender age. Therefore, in addition to the compensation awarded by the tribunal, it would be appropriate to award Rs.30,000/- towards permanent disability, Rs.5,000/- towards attendant charges and Rs.4,000/- towards nutrition. In total, the claimant is entitled to the compensation as detailed below:-

S.No	Head	Rs.
01.	Pain and sufferings	20,000-00
02.	Medical expenses	40,518-00
03.	Transportation	1,000-00
04.	Extra-Nourishment	500-00
05.	Permanent disability	30,000-00
06.	Attendant charges	5,000-00
07.	Nutrition	4,000-00
	Total	1,01,018-00

7.In the result, this appeal is partly allowed. The claimant is entitled to interest @ 6% p.a. for the enhanced compensation. The 3rd Respondent Insurance Company shall deposit the modified award amount before the Tribunal, within a period of eight weeks



from the date of receipt of the order copy. On such deposit is being made, the claimant is permitted to withdraw the entire amount before the Tribunal without filing any formal petition. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Deputy Registrar

/True Copy/

Assistant Registrar

To

The Chief Judicial Magistrate,
(Motor Accident Claims Tribunal)
Nagercoil, Kanyakumari District

+One cc to Mr.K.Bhaskaran, Advocate, SR.No.45225
+One cc to M/s.A.Elis Chitradevi, Advocate, SR.No.45496

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RL/4C/3P/SS2/4.1.2017

Judgment made in

CMA (MD) No.337 of 2015

17.08.2016