

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2017

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

C.M.A. No.1536 of 2017

Minor Thubik @ Mappilai Meeran
Rep. by his next friend and guardian
father Shahul Hameed .. Appellant/Petitioner

Versus

1.P.Lakshmanan
(set exparte before the Tribunal)

2.United India Insurance Co. Ltd.,
Muthiah Complex, 2nd Floor,
1170, Mettur Road, Erode - 638 011 ..Respondents/Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the order made in MCOP.No.335/2012 on the file of the Motor Accident Claims Tribunal cum Subordinate Judge, Bhavani, dated 08.01.2014 and for enhancement of Compensation.

For Appellant : Mr.C.Kulanthaivel

For Respondents : Mr.T.Ravichandran for R2

JUDGMENT

The appeal is filed by the minor appellant seeking enhancement of compensation. The claimant, represented by his father, aged about 15 years, a student, met with an accident on 20.08.2012. In the accident, he suffered injuries which resulted in permanent disability. Claiming a sum of Rs.5,00,000/-, as compensation for the injuries sustained in the accident, the claim petition was filed. The Tribunal has awarded Rs.1,58,000/-, the break up details of which are as under:

1	Permanent disability (30%) 30 x Rs.2000	Rs.60,000/-
2	Medical expenses	Rs.80,000/-
3	Pain and sufferings	Rs.10,000/-
4	Extra nourishment	Rs.5,000/-
5	Transport expenses	Rs.2,000/-
6	Damages to clothes and articles	Rs.1,000/-
	Total	Rs.1,58,000/-

2. He claimed the compensation as awarded by the Tribunal as inadequate and has filed this appeal.

3. The learned counsel for the claimant would point out that the claimant has suffered malunited fractures, fracture in right foot 3, 4 and 5th bones, fracture over right zygoma bone (face) and fracture on the right ankle. With the result, his capacity to become a prospective future citizen itself is lost and therefore, he claimed that the compensation awarded by the Claims Tribunal is inadequate. It is also pointed out that disablement compensation has been awarded only at the rate of Rs.2,000/- per percentage and it has to be enhanced to Rs.3,000/- per percentage of disability. It is pointed out that for the nature of the injuries sustained, the compensation awarded on account of pain and suffering should have been more, especially when the claimant in his adolescent age, was made to bear the pain.

4. The learned counsel for the second respondent submitted that the compensation awarded towards extra nourishment, transport and loss of amenities are more and the cost of nutrition claimed at Rs.20,000/- should not have been accepted by the Tribunal because of the tender age of the claimant. As against the same, it is sufficient, if Rs.10,000/- is awarded and not Rs.20,000/-.

5. Considering the submissions made by the learned appearing for the appellant, this Court is of the view that the award passed by the Tribunal is required to be enhanced. It is appropriate to fix the disablement compensation at the rate of Rs.3,000/- per percentage. In that event, disablement compensation comes to Rs.90,000/-. Considering the nature of injuries and the fact that the claimant suffered acute pain and suffering, the amount awarded towards pain and suffering is required to be enhanced from Rs.10,000/- to Rs.25,000/-. Taking note of the period of hospitalisation of the claimant, this Court is of the view that the Tribunal ought to have awarded

attendant charges as well as loss of amenities in favour of the claimant, but no amount was awarded towards the same. Hence, this Court hereby awards a sum of Rs.10,000/- towards attendant charges and another sum of Rs.10,000/- towards loss of amenities. Similarly, the transportation expenses awarded by the Tribunal at Rs.2,000/- is inadequate and it is hereby enhanced to Rs.10,000/-. Thus, the amount of compensation is enhanced at Rs.2,36,000/- as detailed below :-

1	Permanent disability (30%) 30 x 3000	Rs.90,000/-
2	Medical expenses	Rs.80,000/-
3	Pain and sufferings	Rs.25,000/-
4	Extra nourishment	Rs.10,000/-
5	Transport expenses	Rs.10,000/-
6	Damages to clothes and articles	Rs.1,000/-
7	Attendant charges	Rs.10,000/-
8	Loss of amenities	Rs.10,000/-
	Total	Rs.2,36,000/-

6. Already, the Transport Corporation has deposited the amount as ordered by the Claims Tribunal. The enhanced compensation is therefore directed to be deposited before the Tribunal within six weeks from the date of receipt of a copy of this order. The interest shall be deducted for the period of 424 days, being the delay which occurred in filing the Civil Miscellaneous Appeal.

7. Accordingly, the Civil Miscellaneous Appeal is allowed enhancing the compensation awarded by the Tribunal from Rs.1,58,000/- to Rs.2,36,000/-. No costs. Necessary Court fee, if any, shall be paid on the enhanced compensation amount.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

vs12

To

1. The Subordinate Judge,
Motor Accident Claims Tribunal,
Bhavani.

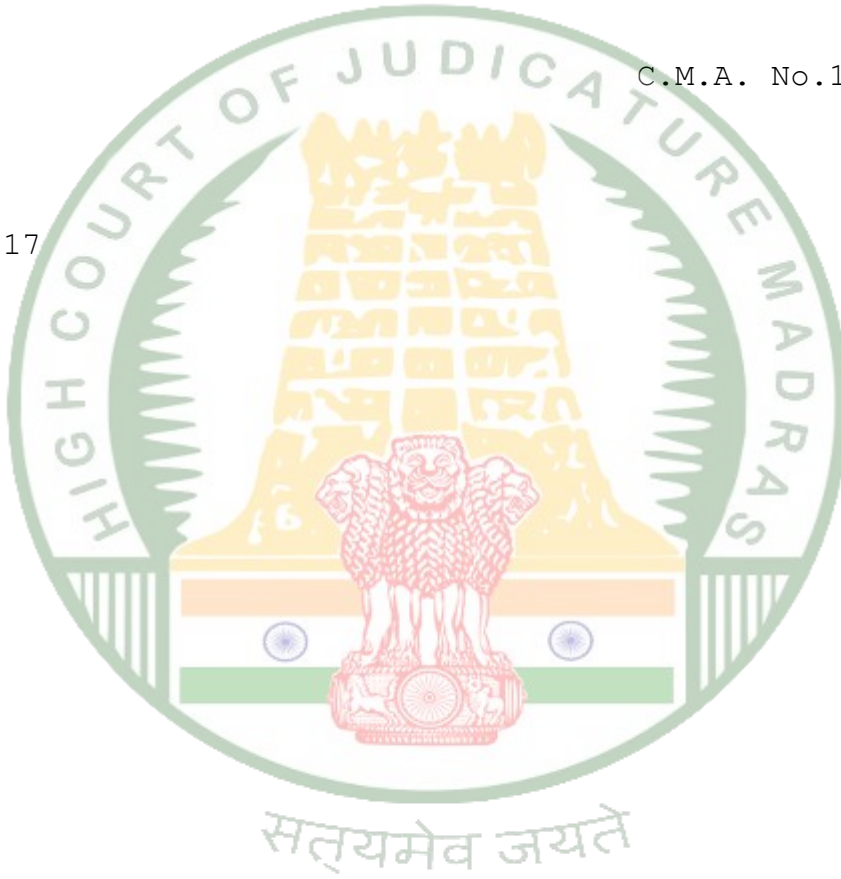
2. The Section Officer, VR Section,
High Court, Madras.

+1 cc to Mr.C.Kulanthaivel Advocate sr 43478

+1 cc to Mr.T.Ravichandran Advocate sr 43058

C.M.A. No.1536 of 2017

sai (co)
aa19/09/2017



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