

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2017

CORAM:

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.No.753 of 2017
and
C.M.P.No.4088 of 2017

The Oriental Insurance Co. Ltd.,
Rep. by its Manager,
Imperial Road,
Cuddalore. ... Appellant/2nd Respondent

Versus

1. Minor Gowtham
(Rep. by his father Gnanasambandam) ... 1st Respondent/Petitioner
2. N.Dhandapani ... 2nd Respondent/1st Respondent

Prayer : This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated 17.09.2005 made in M.C.O.P.No.372 of 2000 on the file of the Motor Accident Claims Tribunal, (I Additional Sub Court), Cuddalore.

For Appellant : Mr.M.Rajasekar

JUDGMENT

The claimant minor Gowtham, aged 9 years, represented by his father, filed a claim petition in M.C.O.P.No.372 of 2000 before the Motor Accident Claims Tribunal, (I Additional Sub Court), Cuddalore, claiming compensation of Rs.5,00,000/-, in respect of the injury sustained in an accident that took place on 09.03.1999.

2. As against the claim made for Rs.5,00,000/-, the Tribunal has awarded a sum of Rs.1,05,600/- as compensation, payable with interest at the rate of 9% p.a. from the date of petition till the date of deposit.

3. Challenging the quantum of compensation, the Insurance Company has filed this appeal.

4. The details of the award passed would go to show that there is a fracture of both the bones in the left leg (Tibia and Fibula). After the surgery, the disablement has been certified at 35%. The claimant had been admitted in the Krishna Hospital as in-patient from 09.03.1999 to 03.04.1999 for a period of

three weeks. Considering the same, the Tribunal has awarded a sum of Rs.40,000/- for disablement; Rs.10,600/- towards medical expenses based on bills; Rs.5000/- towards extra nourishment and Rs.50,000/- towards pain and sufferings; the total compensation has been quantified at Rs.1,05,600/-.

5. There is also a finding that since the injured is a student, there is no scope for loss of income. It is true that there is no loss of income, but, there will be loss of income in future, because of 35% disablement. However, the Tribunal has considered the compensation on account of disablement, which is also estimated at Rs.40,000/-. If the loss of earning capacity had been calculated adopting multiplier method, the award would have been much more. That has not been done. Therefore, the award cannot be said to be excessive. Hence, the Civil Miscellaneous Appeal is dismissed, confirming the award dated 17.09.2005 passed in M.C.O.P.No.372 of 2000 by the Motor Accident Claims Tribunal, (I Additional Sub Court), Cuddalore.

6. The Insurance Company shall deposit the entire amount of compensation along with interest at the rate of 9% p.a. from the date of petition till the date of deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment. The claimant would have attained majority as on date. Therefore, the Tribunal shall permit the claimant to withdraw the amount on producing necessary documents, relating to age. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal,
(I Additional Sub Court),
Cuddalore.

C.M.A.No.753 of 2017

SR(CO)
CA(29/06/2017)