

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.2565 of 2017

and C.M.P.No.13979 of 2017

The Divisional Manager,
United India Insurance Co. Ltd.,
Cuddalore - 1. ... Appellant / 2nd respondent

versus

1. Ranjith Kumar (Minor)
Rep. by his Mother Manjula ... 1st respondent/Petitioner
2. Chandirakumari ... 2nd respondent/1st respondent

Prayer : The appeal filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree dated 13.04.2006 made in M.A.C.T.O.P.No.1677 of 2004 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Cuddalore.

For Appellant : Mr.S.J.Jagadev

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the quantum of compensation awarded at Rs.3,02,085/- as against the claim made for a sum of Rs.5,00,000/-.

2. The claim petition in M.A.C.T.O.P.No.1677 of 2004 has been filed by one minor Ranjith Kumar, who was aged about 6 years who suffered injuries in the accident that took place on 21.06.2004. The injured was treated in the Government Hospital, Cuddalore from 22.06.2004 to 29.06.2004 and thereafter, he took treatment as out patient. The claim was made for a sum of Rs.5,00,000/-.

3. The Tribunal on consideration of materials has given a finding that the minor has suffered loss of education apart from sustaining permanent disablement. While awarding compensation, no itemization of compensation has been done under various heads though the Tribunal has discussed the details of injury suffered and details of treatment given.

4. The mother of the injured has deposed that her son suffered fracture of rib bones 2 and 3 apart from the simple injuries all over the body. The Doctor K.Sivasubramanian has been examined to speak about the permanent disablement. He has also corroborated the evidence of the mother with regard to the details of injury suffered. The doctor has certified the disability at 40%. The Tribunal, while awarding a sum of Rs.2,085/ towards medical expenses , however, has granted a consolidated sum of Rs.3,00,000/- covering the heads pain and suffering, loss of enjoyment of amenities, loss of future income.

5. The learned counsel appearing for the appellant submitted that being a minor, the injury would heal faster and in respect of fracture of two bones, namely, 2nd and 3rd rib bones, the award at Rs.3,00,000/- is excessive.

6. The accident had occurred in the year 2004 and the award was passed in the 2006. Against the award passed by the Tribunal, the Insurance Company filed this appeal in the year 2007. Thereafter, no steps have been taken to number the appeal and to prosecute the same. The insurance company had kept silent for over 10 years and, thereafter, has moved this appeal questioning the quantum of compensation awarded by the Tribunal. Had the appeal been moved immediately on passing of the award, the contention of the insurance company would have been justified. However, with the erosion in money value and inflation reaching the pinnacle in the current scenario, the cost of living having increased manifold, the consolidated compensation of Rs.3,00,000/- awarded not only towards disablement, but also including pain and suffering, loss of amenities, etc., cannot be said to be high. Therefore, this Court is of the considered opinion that the quantum of compensation awarded by the Tribunal, though not itemized, does not call for any interference, as it is neither excessive nor unreasonable.

7. For the reasons aforesaid, this Civil Miscellaneous Appeal is dismissed, confirming the award dated 13.04.2006 made in M.A.C.T.O.P.No.1677 of 2004 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Cuddalore. Consequently, connected miscellaneous petition is closed.

8. The Insurance Company is directed to deposit the entire amount of compensation awarded by the Tribunal, less the amount, if any, already deposited, along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit, to the credit of claim petition, within a period of four weeks from the date of petition till the date of deposit. On such deposit

being made, the Tribunal shall transfer the same directly to the Bank Account of the claimant through RTGS within a period of two weeks thereafter.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

1. The Motor Accident Claims Tribunal,
Principal Subordinate Judge,
Cuddalore.

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

C.M.A.No.2565 of 2017

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