

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM:

THE HONOURABLE Dr. JUSTICE S.VIMALA

C.M.A.No.835 of 2017
and C.M.P.No.4246 of 2017

The Divisional Manager,
United India Insurance Co. Ltd.,
Cuddalore.

... Appellant/2nd respondent

versus

1. Rajeswari

... 1st respondent/Petitioner

2. T.Prema

... 2nd respondent/1st
respondent

(R2 remained ex parte before
the Tribunal)

Appeal filed under Section 173 of Motor Vehicles Act 1989,
against the Judgment and Decree dated 15.12.2004 made in
M.A.C.T.O.P.No.238 of 1998 on the file of the Motor Accident
Claims Tribunal (Sub Judge), Panruti.

For Appellant : M/s.S.Ramalingam

For R1 : Mr.Senthilkumar

JUDGMENT

One Minor Rajeswari, aged 10 years, met with an accident on
16.06.1993 and sustained multiple greivous injuries over the
head and hip. Hence, the claimant, represented by his father
Chakkaravarthy filed a claim petition before the Motor Accident
Claims Tribunal (Sub Judge), Panruti, in M.A.C.T.O.P.No.238 of
1998, claiming compensation of Rs.3,50,000/-.

2. The Tribunal, on consideration of the oral and
documentary evidence, awarded a sum of Rs.1,75,000/- along with
interest at the rate of 9% p.a. from the date of petition till
the date of deposit. Challenging the said award as excessive,
the Insurance Company has filed this appeal.

3. The learned counsel for the appellant Insurance Company
submits that the assessment of disability at 50% is not based on

any material evidence and therefore, the quantum of compensation awarded by the Tribunal is excessive and unjustifiable.

4. Per contra, learned counsel appearing for the claimant submits that the quantum of compensation awarded by the Tribunal is justifiable and requires no interference.

5. In order to appreciate the contention of the learned counsel appearing for the parties, it is necessary to look into the award passed by the Tribunal.

6. The claimant minor Rajeswari, aged 10 years, a student of 5th standard, met with an accident on 16.06.1993 and suffered multiple and grievous injuries over the head as well as hip. The claimant was admitted as an in-patient at Government Head Quarters Hospital, Pondicherry from 16.06.1993 to 24.06.1993 and thereafter, she has been referred to Jipmer Hospital, Pondicherry for further treatment.

7. P.W.3, the Doctor, who treated the injured, has certified that the injured has suffered grievous injuries. P.W.3 has assessed that the disablement was only on account of injury sustained in the accident and has further assessed the disablement at 100%.

8. Considering the nature of disability and the impact of the disability, the Tribunal has quantified the disability at 50% and awarded a sum of Rs.1,25,000/- on account of permanent disablement. The Tribunal, adopting per percentage method for quantifying the compensation, has awarded compensation in a sum of Rs.1,25,000/-, which cannot be said to be excessive or unreasonable. The appellant/Transport Corporation is not able to point out to this Court as to how the said amount could be said to be excessive and unreasonable. Accordingly, the amount of Rs.1,25,000/- awarded under the head permanent disablement is confirmed.

9. Insofar as the compensation under the heads pain and suffering, extra nourishment and transport charges, the Tribunal has awarded a consolidated sum of Rs.50,000/-. This amount also cannot be said to be excessive considering the nature of injuries sustained by the claimant and also the period of treatment undergone. In all, the Tribunal has awarded a sum of Rs.1,75,000/-, which cannot be said to be excessive and, accordingly, the said compensation awarded is confirmed.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed, confirming the award dated 15.12.2004 made in M.A.C.T.O.P.No.238 of 1998 on the file of the Motor Accident Claims Tribunal (Sub Judge), Panruti. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11. The Insurance Company is directed to deposit the entire award amount along with interest at the rate of 9% p.a. from the date of petition till the date of deposit, less the amount, if any, already deposited, to the credit of the claim petition within a period of four weeks from the date of receipt of a copy of this order. The first respondent/petitioner would have attained majority by now. On production of proof of age to sustain attainment of majority, the Tribunal shall transfer the award amount to the bank account of the petitioner/first respondent through RTGS within a period of two weeks thereafter.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar
ogy/GLN

To

1. The Motor Accident Claims Tribunal
(Sub Judge),
Panruti.

2.The Section Officer,
VR Section,
High Court

C.M.A.No.835 of 2017

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nr 13/03/2018