



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2017

CORAM :

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.M.A. (MD) No. 955 of 2016

Royal Sundaram Alliance
Insurance Company Limited,
Krishna Plaza, 1st Floor,
Nachiyar Street, Erode-1,
Represented by its Branch Manager. ... Appellant/2nd Respondent

vs

1. Minor Maha Atchaya
(represented by his father and
next friend Selvaraj) ... 1st Respondent/Claimant
2. Vardhappan ... 2nd Respondent/1st Respondent
3. New India Insurance Company Limited,
Theni,
Represented by its
Branch Manager. ... 3rd Respondent/3rd Respondent

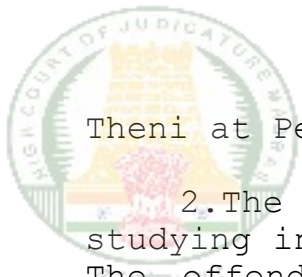
Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the fair and decretal order dated 15.04.2015 made in M.C.O.P.No.16 of 2013 on the file of the Motor Vehicles Accident Claims Tribunal Additional District and Sessions Judge, Theni at Periyakulam.

For Appellant : Mr.M.Jerin Mathew
for Mr.M.E.Ilango

For Respondents : Mr.G.Vanjinathan for R1
Mr.D.Malaichamy for R.3
No Appearance for R.2

JUDGMENT

This Civil Miscellaneous Appeal has been filed by Royal Sundaram Alliance Insurance Company Limited, challenging the award made in M.C.O.P.No.16 of 2013 on the file of the Motor Vehicles Accident Claims Tribunal Additional District and Sessions Judge,



Theni at Periyakulam.

2.The first respondent herein was aged 11 years and was studying in sixth standard when the accident in question took place. The offending vehicle was insured with the appellant/ Insurance Company.

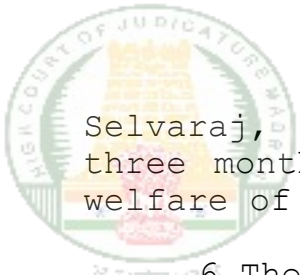
3.The learned counsel for the appellant fairly states that there is no dispute regarding liability. The only issue is regarding quantum of compensation payable to the claimant. The Tribunal has awarded a sum of Rs.4,78,130/- as compensation to the claimant. It is seen that the claimant suffered a fracture in her right hand. The said fracture has healed. Merely because Ex.P.35 certificate has been issued by P.W.4, stating that there is 34% disability, the court cannot mechanically accept the same. The claimant has not substantiated as to how she has suffered adverse consequences as a result. It is true that an accident took place. It is true that the claimant was injured. She was medically treated and the fracture has since healed. Awarding compensation of Rs.4,78,130/- for this is certainly excessive.

4.This Court therefore would award a sum of Rs.50,000/- towards pain and suffering. There is no question of loss of income. The sum of Rs.50,000/- can be awarded towards medical expenditure. The sum of Rs.10,000/- can be awarded towards transportation. The compensation payable to the first respondent can be reworked as follows;-

Pain and suffering	: Rs.50,000/-
Medical Expenditure	: Rs.50,000/-
For Transportation	: Rs.10,000/-

	Rs.1,10,000

5.The compensation payable to the 1st respondent is reduced from Rs.4,78,130/- to Rs.1,10,000/-. The award dated 15.04.2015 made in M.C.O.P.No.16 of 2013 on the file of the Motor Vehicles Accident Claims Tribunal Additional District and Sessions Judge, Theni at Periyakulam is modified. The compensation payable to the claimant is reduced from Rs.4,78,130/- to Rs.1,10,000/-. The appellant is liable to pay the said sum of Rs.1,10,000/- to the 1st respondent at 7.5% per annum from the date of petition till the date of realisation. The appellant shall deposit the said amount, within twelve weeks from the date of receipt of a copy of this order to the credit of M.C.O.P.No.16 of 2013 on the file of the Motor Vehicles Accident Claims Tribunal Additional District and Sessions Judge, Theni at Periyakulam, if the same is not already deposited. Since the claimant being minor, the award amount shall be deposited in any one of the Nationalised Banks in fixed deposit, initially for a period of three years, renewable thereafter, till she attains majority. The natural guardian of the minor claimant, her father



Selvaraj, is permitted to withdraw the accrued interest, once in three months, directly from the Bank and utilise the same for the welfare of minor.

6.The Civil Miscellaneous Appeal is partly allowed. No costs.

WEB COPY

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Additional District and Sessions Judge,
Motor Vehicles Accident Claims Tribunal
Theni, Periyakulam.
2. The Record Keeper, Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

Copy To:-

Vardhappan,
S/o.Natesan,
No.2/210, Amman Kattur,
Thangayur Post,
Edapadi Taluk,
Namakkal District.

TSG

TE/MR/SAR-4 : 22/02/2018 : 3P/5C

JUDGMENT MADE IN
C.M.A. (MD) No.955 of 2016
11.10.2017