

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2018

Coram

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A.No.752 of 2015

Minor Sarath Kumar,
S/o.Sengutty,
Minor rep.by Next friend and Guardian,
Kaveri ... Appellant/Claimant

Vs

1. T.N.Srinivasa Reddy
2. Branch Manager,
The New India Assurance Complany Ltd,
42, Big Street,
Tiruvannamalai. ... Respondents

PRAYER: This Civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the award in MACTOP No.219 of 2010 dated 28.09.2011 on the file of the Motor Accident Claims Tribunal / Additional Subordinate Judge, Thiruvannamalai.

For Appellant : Mr.Terry Chellaraja
For Respondents: Mr.M.Manokar for
Ms.Malar Saravanan, for R1
Mr.K.vinod for R2

JUDGMENT

The Civil Miscellaneous appeal has been filed to enhance the award amount passed by the Motor Accident Claims Tribunal / Additional Subordinate Judge, Thiruvannamalai in MACTOP No.219 of 2010 dated 28.09.2011.

2. It is the case of the appellant that the appellant is a minor, aged about 15 years and a part time worker in as Bricklin field. He is the only bread winner of his family. On 29.01.2010, at about 8.50 a.m., the appellant was riding his bicycle in the left side of the road near Thokkavadi Mariamman Koil at Bridge in Tiruvannamalai to Chengam Road, Chengam Taluk. At that time, the first respondent's Indica Car bearing registration Number K.A.03/MA.4407 driver drove the vehicle from

opposite direction from Chengam to Tiruvannamalai in rash and negligent manner and dashed against the appellant. In the said accident, the appellant and his friend Master Gajendiran who is the pillion rider of the appellant's bicycle were sustained serious injuries. The accident has been registered in Chengam Police Station vide Crime No.128 of 2010 under Sections 279, 337 I.P.C,. The appellant got fractures in the left side frontal bone, left side head, maxillary bone and left eye site (Blindness) and serious injuries in the left ear, left eye, left forehead, nose, left knee, left shoulder, left hand, head, Right knee and in some other parts of his body. Immediately the appellant and his friend Master Gajendiran were admitted in Chengam Government Hospital for treatment. Further, the appellant had been shifted to Tiruvannamali Hospital and thereafter to Pondichery JIPMER Hospital and to some other private hospitals.

3. For the said accident, the appellant has claimed Rs.10,00,000/- towards compensation before the Motor Accidents Claims Tribunal / Additional Subordinate Judge, Thiruvannamalai in MACTOP No. 219 of 2010. After elaborate discussion, the Tribunal has partly allowed the MACTOP and awarded a sum of Rs.80,400/- towards total compensation.

4. Aggrieved against the order dated 28.09.2011, the appellant is before this Court for enhancement of the award amount passed by the Tribunal.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. It is reported by the learned counsel for the appellant that the Tribunal failed to consider the deposition of PW4 / Eye Doctor that the injured appellant has sustained 35% as permanent disability in his left eye sight. In such a way the Motor Accident Claims Tribunal failed to consider the evidences of PW2, PW4 and PW6 and their exhibits and failed to appreciate the evidence of Doctors who treated the appellant for his injuries.

7. Considering the nature of the injuries sustained by the appellant, it is a fit case to give a direction to the Tribunal for fresh consideration. Therefore, the Motor Accident Claims Original petition in M.A.C.T.O.P. No.219 of 2010 is remitted back to the Motor Accidents Claims Tribunal / Additional Subordinate Judge, Thiruvannamalai for fresh consideration. Further the appellant/claimant is directed to forgo interest for the period from numbering this appeal in C.M.A.No.752 of 2012 till the disposal of this appeal. Both the parties are directed to produce proof of document by way of application and let in

evidence before the Tribunal. The Tribunal is directed to dispose of the M.A.C.T.O.P. No.219 of 2010 within a period of three months from the date of receipt of a copy of this Judgment.

8. With the above direction, this Civil Miscellaneous Appeal is disposed of. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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TO

1. The Motor Accident Claims Tribunal/
Additional Subordinate Judge,
Tiruvannamalai.

Copy TO

The Section Officer,
V.R. Section, High Court,
Madras.

+1cc to Mr. M.Malar, Advocate, S.R.No. 62702

C.M.A.No.752 of 2015

KGK(CO)
GN(22/10/2018)

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