

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.No.884 of 2016

Vignesh (Major)

(Appellant declared as Major and his father and next friend Kaliappan discharged from the guardianship vide Court order dated 30.8.2018 made in CMP.Nos.14930 & 14931/2018 in CMA.No.884 of 2016)

....

Appellant/Petitioner

Vs

1.G.Murugavel

2.ICICI Lombard General Insurance Co. Ltd.,
No.140, Nungambakkam High Road,
Chennai - 600 034.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the decree and judgment dated 08.01.2016 passed in M.C.O.P.No.4277 of 2013 on the file of Motor Accident Claims Tribunal cum IV Judge, Small Causes Court, Chennai.

For Appellant : Mr.S.Ravikumar

For Respondents: M/s.R.Sreevidya (for R2)
No Appearance (for R1)

JUDGMENT

The claimant, who suffered grievous injuries in the accident that took place on 17.05.2013, filed a claim petition in MCOP.No.4277 of 2013 before the Motor Accident Claims Tribunal, (IV Court of Small Causes, at Chennai) at Chennai, claiming compensation in a sum of Rs.6,00,000/-.

2.The Tribunal, on consideration of the oral and documentary evidence placed before it, quantified the

compensation in a sum of Rs.1,38,500/- the breakup of which is hereunder:

i. Disability	Rs. 60,000/-
ii. Pain and suffering	Rs. 50,000/-
iii. Extra Nourishment	Rs. 5,000/-
iv. Transport to Hospital	Rs. 2,500/-
v. Damage to Clothes	Rs. 1,000/-
vi. Medical expenses	Rs. 5,000/-
vii. Future Medical expenses	Rs. 5,000/-
viii. Loss of Education	Rs. 5,000/-
ix. Loss of amenities	Rs. 5,000/-

Total Rs. 1,38,500/-

3.Challenging the compensation award as inadequate and not proportionate to the injuries sustained, the claimant has preferred the present appeal.

4.The main contention raised by the Learned Counsel for the appellant is that even though it is a fit case for adopting multiplier, the Tribunal has not adopted the multiplier method. Though the doctor has assessed the disability at 40%, which has been reduced by Tribunal to 20%, however, curiously, the Tribunal instead of accepting 40% and adopting multiplier method, has adopted the per percentage method and awarded compensation of Rs.3,000/- per percentage of disability, which is on the very lower side. The claimant has suffered fracture of clavicle bone hand and injury over occipital region, facial injury and multiple injuries and he was not able to study and participate in any sport activities for period of three years. It is also pointed out that the compensation awarded under all heads are meager. It is further contention of learned counsel that claimant, was a student, has totally not able to study and participate in any sports activities and competitions, on account of the accident and the injuries suffered thereof and, therefore, needs to be compensated for the injuries sustained by him adequately.

5.I heard Mr.S.Ravikumar, learned counsel appearing for the appellant and M/s.R.Sreevidya, learned counsel appearing for the 2nd respondent and perused the materials available on record.

6.It is evident from the evidence available on record that no proof towards the contention of counsel for appellant. The accident has happened in the year 2013 and the claimant was aged about 14 years. There is no dispute with regard to the age of the claimant. Therefore, it would be safe to fix the disability of 35% instead of 20%.

7.The claimant has suffered 40% of disability, as is certified by the doctor, however, the Tribunal fixed the disability at 20%. However, a perusal of the award reveals that the Tribunal has awarded Rs.3,000/- per percentage of disability, which, as contended by the Learned counsel for the appellant is on the very low side. A perusal of the injuries sustained by the claimant and the period of treatment undergone definitely warrants a higher compensation. Though this court accepts that the compensation needs to be enhanced, however is not inclined to adopt the multiplier method. On an overall consideration of evidence, this court is of the considered view that Rs.3,000/- per percentage of disability would meet the needs of justice. Accordingly, a sum of Rs.1,05,000/- (35 x 3,000/-) is awarded towards disability.

8.In so far as compensation under the heads loss of education and loss of amenities, it is evident from the records that amount awarded by the Tribunal, was meager, Considering the entire factual matrix and the injuries suffered and the period of treatment undergone, this court awards an amount of Rs.10,000/- each under the heads of loss of education and loss of amenities. In so far as compensation under the head extra nourishment, transportation and damages is enhanced as Rs.20,000/- towards extra nourishment, Rs.10,000/- towards transportation to Hospital and Rs.5,000/- towards damage to clothes.

9.Insofar as the compensation awarded under the other heads are concerned, this court is of the considered opinion that they are reasonable and does not receive any interference at the hands of this Court.

S.No.	Heads	Amount awarded to be modified
1	Disability	Rs.1,05,000/-
2	Pain and suffering	Rs. 50,000/-
3	Extra nourishment	Rs. 20,000/-
4	Transport to Hospital	Rs. 10,000/-
5	Damage to clothes	Rs. 5,000/-
6	Medical Expenses	Rs. 5,000/-
7	Future Medical Expenses	Rs. 5,000/-
8	Loss of Education	Rs. 10,000/-
9	Loss of Amenities	Rs. 10,000/-
10	Total	Rs.2,20,000/-

10. In the result, this appeal is allowed in part enhancing the compensation from Rs.1,38,500/- to Rs.2,20,000/-. However, there shall be no order as to costs.

11. The 2nd respondent/Insurance company is directed to deposit the enhanced award amount, as ordered by this court above, along with interest and costs, 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 Judgment. On such deposit being made, the Tribunal is directed to transfer the amount directly to the bank account of the claimant through RTGS within a period of two weeks thereafter. The appellant is directed to pay the deficit court fee and Registry is directed to draft the decree only after payment of the deficit court fee by the appellant.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vs

To

1. The IV Judge,
The Motor Accident Claims Tribunal,
Small Causes Court, Chennai.

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

+1cc to Mr.S.Ravikumar, Advocate, S.R.No. 59572

+1cc to Mr.R.Sreevidhya, Advocate, S.R.No. 60230

EV(CO)
GN(05/03/2019)

C.M.A.No.884 of 2016

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