

PIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.M.A.Nos.959 and 1415 of 2018
& C.M.P.No.11324 of 2018

C.M.A.No.959 of 2018

Minor Sarveena
Rep., by father Thiru Thangaraj,
3/248, Kombakattupudur,
Ichipatti, Somanor, Palladam.Appellant

Vs.

- 1.P.Sivakumar
S/o Palanisamy, 3/42, Chinna Kondangipalayam,
K.N.Puram, Palladam.
- 2.Janaki, W/o Sivakumar,
3/42, Chinna Kondangipalayam,
K.N.Puram, Palladam.
- 3.Tata AIG General Insurance Co., Ltd.,
Jeya Enclave, 1057, Avinashi Road,
Coimbatore.Respondents

(Respondents 1 & 2 set remained ex-parte
before the Tribunal. Hence, notice may be
dispensed with for them in this appeal)

C.M.A.No.1415 of 2018

Tata AIG General Insurance Co., Ltd.,
Jeya Enclave, 1057, Avinashi Road,
Coimbatore-18.Appellant

Vs.

- 1.Minor Sarveena(8 years),
Rep., by father Thangaraj,
3/248, Kombakattupudur,
Ichipatti, Somanor, Palladam.

2.P.Sivakumar(41 years)
S/o Palanisamy,
3/42, Chinna Kondangipalayam,
K.N.Puram, Palladam.

3.Janaki, W/o Sivakumar,
3/42, Chinna Kondangipalayam,
K.N.Puram, Palladam.

...Respondents

Prayer:- Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 12.01.2018 made in MCOP No.315 of 2013 on the file of the Accidents Claims Tribunal/Chief Judicial Magistrate at Tiruppur.

For Appellant : Mr.M.Lokesh for
in CMA.959/2018 Mr Ma.P.Thangavel
& Ist respondent in
CMA.1415/2018

For Appellant : Mr.S.Manohar
in CMA.1415/2018 & Mr.N.Vijayaraghavan
& 3rd Respondent
in CMA.959/2018

COMMON JUDGMENT

(Judgment of the Court was made by R.SUBRAMANIAN,J.)

While C.M.A.No.959 of 2018 is filed by the minor claimant as against the award dated 12.01.2018 made in MCOP No.315 of 2013 on the file of the Accidents Claims Tribunal/Chief Judicial Magistrate at Tiruppur, seeking enhancement, C.M.A.No.1415 of 2018 is filed by the Insurance company questioning the quantum.

2. The Tribunal had granted a sum of Rs.33,66,200/- as compensation for the injuries suffered by the minor claimant in the accident which had affected her future prospects very severely and her disability was assessed at 90%. There is no evidence that the minor girl can live as a normal human being as the head injuries affected her mental condition also. Therefore, we suggested to the learned counsel for the Insurance Company that the Insurance Company has to take a pragmatic view as these types of injuries lead to worse suffering through out the life time of the victim and expressed our intention to enhance the compensation.

3. Mr.N.Vijayaraghavan, learned counsel for the Insurance Company, after taking instructions, would submit that the Insurance Company agreed to pay a sum of Rs.39,66,200/- towards compensation with proportionate interest as against a sum of Rs.33,66,200/- awarded by the Tribunal.

4.The abovesaid statement of the learned counsel for the Insurance Company is recorded. The Award will stand modified as Rs.39,66,200/- (Rupees thirty nine lakhs sixty six thousand and two hundred only) with proportionate interest and costs. We appreciate Mr.N.Vijayaraghavan, learned counsel for the Insurance Company, for the efforts taken by him as well as the magnanimous gesture on the part of Insurance Company in coming forward to pay enhanced compensation.

5. The Insurance company is directed to deposit the award amount within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the father, who is the guardian of the minor girl, is permitted to withdraw a sum of Rs.12,00,000/- (Rupees twelve lakhs only) and the Tribunal is directed to invest the remaining amount in a interest fixed deposit till the minor attains majority.

6. C.M.A.No.959 of 2018 stands allowed in part and C.M.A.No.1415 of 2018 stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

raa

To

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Tiruppur.

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No. 57399
+1cc to Mr.S.Manohar, Advocate, S.R.No. 57283

C.M.A.Nos.959 & 1415 of 2018

KGK(CO)
GN(01/10/2018)