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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.02.2019

Pronounced on : 25.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.800 of 2011

Minor.Vinodhini
rep.by her mother and
Natural Guardian Chandrakala ... Appellant

Versus

1.Kadhirvel
2.The United India Insurance Co., Ltd.,
No.38, Anna Salai, Chennai 2. ... Respondents

(R1, remained ex-parte before the Tribunal)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 31.08.2006 and made in MACT.O.P.No.5459 of 1999 on the file of the Motor Accidents Claims Tribunal, Chennai (Fast Track Court No.I, Chennai).

For Appellant : Mr.F.Terry Chellaraja

For Respondents: Exparte before the Tribunal
(for R1)

Mr.J.Vijayaraghavan (for R2)

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/claimant for enhancement of compensation granted by the award dated 31.08.2006 in MACT.O.P.No.5459 of 1999 on the file of the Motor Accidents Claims Tribunal, Chennai (Fast Track Court No.I, Chennai).

2. Regarding the manner of the accident and rash & negligence on the part of the first respondent/driver of the vehicle, there is no dispute in this appeal.



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3.The Tribunal has awarded a sum of Rs.5,000/- as total compensation for the injuries sustained by the claimant. Not being satisfied with the quantum of compensation, the appellant/claimant has come forward with the present appeal.

4. I have heard, the learned counsel appearing on either side and perused the materials available on record.

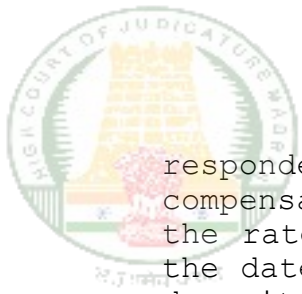
5.Before the Tribunal, on the side of the claimant, the mother of the claimant was examined as P.W.1 besides examining one Dr.Thiagarajan as PW.2 and seven documents were marked as Exs.P1 to P7. On the sides of the respondents, neither oral nor documentary evidence was adduced.

6.According to the learned counsel for the appellant/claimant, due to the accident, the victim has suffered head injury, blunt injury in abdomen, injury on left leg and multiple injuries all over the body. Hence, she had taken two days inpatient treatment and subsequently, she has taken further continuous treatment. Further, due to the head injury, the brain swelled and it causes fits, head ache and shivering. PW.2/Doctor, who has issued the disability certificate/Ex.P6, has assessed the disability suffered by the victim at 20%. But, according to the learned counsel for the appellant/claimant, the Tribunal, without properly considering the evidence adduced on the side of the claimant, has awarded a meager sum of Rs.5,000/- as compensation, which is an inadequate compensation.

7.Per contra, it is the contention of the learned counsel appearing for the second respondent/Insurance Company that the compensation amount of Rs.5,000/- awarded by the Tribunal is a just and proper compensation.

8.But, it is seen from the materials available on record that after the accident, the victim girl, who was aged eight years at the time of accident, was admitted in hospital and she took treatment as in patient for two days. The medical bills were marked under Ex.P5, which shows that a sum of Rs.3,493/- has been incurred during treatment. Considering the injuries sustained by the victim, the sum of Rs.5,000/- awarded by the Tribunal appears to be on the lower side and the same needs proper enhancement. Hence, in the interest of Justice, the compensation amount of Rs.5,000/- awarded by the Tribunal is hereby enhanced to Rs.20,000/-, which would be a just and proper compensation for the injuries sustained by the victim.

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation amount of Rs.5,000/- awarded by the Tribunal is hereby enhanced to Rs.20,000/-. The second



respondent/Insurance Company is directed to deposit the enhanced compensation amount as awarded in this appeal, with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, after adjusting the amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit, the appellant is entitled to withdraw the same, by making necessary application before the Tribunal. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
Chennai (Fast Track Court No.I, Chennai).

2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1cc to Mr.F.Terry Chella Raja, Advocate Sr.17142

CMA.No.800 of 2011

vsn II[co]
srg 24/09/2019