



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 20.09.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A. (MD)No.1146 of 2004

Jaffar Sherif (Minor)
represented by his mother
and natural guardian
Mumthajudeen

... Appellant / Petitioner

- Vs -

1.Manikandan

2.Udayam

3.The Oriental Insurance Co.Ltd.,
Nagercoil.

... Respondents / Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 14.03.2002 passed in M.C.O.P.No.65 of 2001 on the file of the Principal Motor Accidents Claims Tribunal (Principal Sub Court), Nagercoil.

For Appellant : No Appearance

For Respondents : No Appearance

J U D G M E N T

This appeal is directed against the judgment, dated 14.03.2002 passed in M.C.O.P.No.65 of 2001 on the file of the Principal Motor Accidents Claims Tribunal (Principal Sub Court), Nagercoil.

2.The case of the claimant in the petition is as follows:

On 30.09.1998, when the petitioner was travelling in a Hero Honda Motor Cycle bearing registration No.TN 74 Z 2881 as pillion rider from Nagercoil to Kanyakumari, an auto bearing registration No.TN 73 C 9243, which was coming from the opposite direction in a rash and negligent manner and dashed against the petitioner, as a result of which, he sustained multiple grievous injuries. So, he filed a petition before the Tribunal claiming a sum of Rs.3,00,000/- as compensation.



3. Before the Tribunal, on the side of the petitioner, P.Ws.1 to 3 were examined and Exs.P1 to P13 were marked. On the side of the respondent R.Ws.1 and 2 were examined and Exs.R1 to R5 were marked.

4. On a careful consideration of the evidence on record, the learned Tribunal has awarded a sum of Rs.55,940/- as compensation with interest at the rate of 9%. Aggrieved against the said award, the appellant / claimant has filed this appeal for enhancement of compensation.

5. When the matter was called, none appeared on either side. However, this Court is inclined to dispose of this appeal on merits.

6. The only point for determination in this appeal is What is the just compensation?

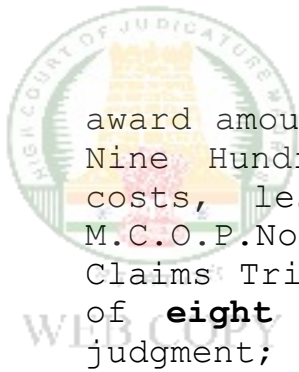
7. A perusal of records and the order passed by the Court below, it appears that the injured was 11 years old at the time accident and he is a student. Regarding disability, the doctor assessed the disability at 30%. Ex.P12 is the disability certificate. Though the Tribunal has awarded a sum of Rs.25,000/- towards pain and suffering, nothing was awarded towards disability. Therefore, considering the age of the injured person and the disability, which he had suffered on account of injury, this Court is of the opinion that when the disability is fixed at 30%, as per the decision reported in **2007 (2) TN MAC 257 (R.Senthil Kumar v. P.Palaniswamy and others)** per percentage Rs.2,000/- should be awarded. Accordingly, this Court awarded a sum of **Rs.60,000/-** (30 x Rs.2000) towards 30% disability.

8. For pain and sufferings, the Tribunal has awarded a sum of Rs.25,000/-, which is very low and hence, the same is enhanced to **Rs.50,000/-**. The Tribunal has awarded a sum of **Rs.1,000/-** for transportation; **Rs.3,000/-** for nutritious food and **Rs.26,940/-** for medical expenses, as per Ex.P7-medical bills and Ex.P13-Xray, which are reasonable and so they are confirmed.

9. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from **Rs.55,940/-** (Rupees Fifty Five Thousand Nine Hundred and Forty only) to a sum of **Rs.1,40,940/-** (Rupees One Lakh Forty Thousand Nine Hundred and Forty only). The interest on the award amount is reduced to **7.5%** from **9%**.

(ii) The respondent-Insurance is directed to deposit the entire



award amount namely, **Rs.1,40,940/-** (Rupees One Lakh Forty Thousand Nine Hundred and Forty only) along with accrued interest and costs, less the amount deposited, if any, to the credit of M.C.O.P.No.65 of 2001 on the file of the Principal Motor Accidents Claims Tribunal (Principal Sub Court), Nagercoil, within a period of **eight weeks** from the date of receipt of a copy of this judgment;

(iii) On compliance of payment of additional Court Fees, if any, by the claimant, the Tribunal is directed to transfer the entire award amount namely **Rs.1,40,940/-** (Rupees One Lakh Forty Thousand Nine Hundred and Forty only) along with accrued interest and costs directly to the Personal Savings Bank Account Number of the appellant-claimant, through RTGS/NEFT system, after getting his Account Details, within a period of **two weeks thereafter**; and

(iv) In the facts and circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

Rj2

To:

1.The Principal Motor Accidents Claims Tribunal
(Principal Sub Court), Nagercoil.

2.Jaffar Sherif (Minor)
rep by his mother Mumthajudeen
5/4, Main Road, Agastheeswaram,
Kanniyakumari District.

3.The Oriental Insurance Company Ltd.,
Nagercoil

copy to

The Section Officer, VR Section
Madurai Bench of Madras High Court, Madurai-2 copies

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