

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2191 of 2015

Thavamani

...Appellant/Petitioner

Vs.

1.Aadimulam

2.The Divisional Manager,
The Oriental Insurance Company Limited,
No.75, Krishna Street,
Tiruvannamalai Town. ...Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 22.09.2010 made in M.A.CT.O.P.No.242 of 2008, on the file of the Motor Vehicle Accidents Claims Tribunal, Chief Judicial Magistrate, Thiruvannamalai.

For Petitioner: Mr.A.Subadra
for Mr.F.Terry Chellaraja

For Respondents: Mr.N.Sampath for R2
R1-Ex-parte

सत्यमेव जयते
J U D G M E N T

The appeal on hand is filed against the judgment and decree dated 22.09.2010 passed in M.A.C.T.O.P.No.242 of 2008 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Thiruvannamalai.

2. The accident occurred on 26.06.2001 at about 12.00 a.m. near Polur City Bus Stand. Polur Police Station registered a case in Crime No.279 of 2001 under Sections 279, 337. The claimant was a minor and at the time of accident, he was aged

about 12 years and sustained partial permanent disability, which was assessed by the Doctor as 25%. The Tribunal considered the documents as well as Disability Certificate issued by the Doctor and accordingly, granted a total compensation of Rs.55,000/-.

3. The learned counsel appearing on behalf of the appellant/claimant mainly contended that the Hon'ble Supreme Court in the case of MASTER MALLIKARJUN vs. DIVISIONAL MANAGER, NATIONAL INSURANCE COMPANY LIMITED AND ANOTHER reported in 2013 (2)TNMAC 338(SC), held that if the disability is between 10% to 30%, then a sum of Rs.3,00,000/- is to be awarded in respect of minor children. Citing the said judgment, the learned counsel appearing on behalf of the appellant reiterated that the Tribunal has granted inadequate compensation, which deserves to be enhanced.

4. This Court is of the considered opinion that the judgment of the Hon'ble Supreme Court of India cannot be applied in a full strength, in view of the fact that the judgment was delivered in the Apex Court on 26.08.2013. In the present case on hand, the accident occurred in the year 2001, there is a time gap of about 12 years and therefore, the compensation of Rs.3,00,000/- granted in the year 2013, cannot be granted with reference to the accident occurred in the year 2001. However, this Court find that the claimant is a young boy, sustained some grievous injuries which was assessed by the Doctor as 25% and the same would undoubtedly cause certain pain and suffering as well as other difficulties in leading a normal life. A boy child aged about 12 years, sustained grievous injuries and admitted as in-patient in the hospital for about 45 days, this Court is of the opinion that the Tribunal ought to have granted some more compensation, considering the future difficulties to be faced by such boy child. Under these circumstances, this Court is of the considered opinion that the Tribunal has not granted adequate compensation, in view of the fact that the partial permanent disability is 25% and such a disability would undoubtedly affect the future normal life of the boy. Accordingly, the total compensation granted by the tribunal at Rs.55,000/- is now enhanced to Rs.1,00,000/-. The total compensation is enhanced as Rs.1,00,000/- and the second respondent/Insurance Company is directed to deposit the enhanced compensation along with interest at the rate of 7.5% per annum within a period of six weeks from the date of receipt of a copy of this judgment and on such deposit, the appellant/claimant is permitted to withdraw the entire amount by filing an appropriate application and the payments are to be made through RTGS. Accordingly, the judgment

and decree dated 22.09.2010 passed in M.A.C.T.O.P.No.242 of 2008 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Thiruvannamalai, is set aside and the Civil Miscellaneous Appeal stands allowed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

1.The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Thiruvannamalai.

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

+1cc to Mr.M.Malar, Advocate Sr.22286

+1cc to Mr.N.Sampath, Advocate Sr.22087

C.M.A.No.2191 of 2015

rsv[co]
srg 15/12/2020

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