

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A. No. 2581 of 2017

S. Rahul (minor)
rep. By mother and next friend,
S. Nagalakshmi ... Appellant /Petitioner

Vs.

1.M/s. Scope International Private Ltd.,
No.1, Haddows Road,
Nungambakkam, Chennai 600 006.

2.ICICI Lombard General Insurance Co.
Chotabhai Towers,
No. 140, Nungambakkam High Road,
Chennai 600 006.

Now functioning at
ICICI Lombard General Insurance Co. Ltd.,
Harihant Plaza, 1st Floor,
No. 83/84, Walltax Road,
Chennai 600 003. ... Respondents /Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 06.02.2017, made in M.C.O.P. No. 2433 of 2013, on the file of the II Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

For Appellant : Ms. P.T. Salim Fathima

For Respondents: Mr. Pranava Charan (for R1)

Mrs. R. Sree Vidhya (For R2)

J U D G M E N T

This appeal has been filed for enhancement of the compensation granted by the award dated 06.02.2017, made in M.C.O.P. No. 2433 of 2013, on the file of the II Court of Small Causes, (Motor Accident Claims Tribunal), Chennai.

2.The appellant is claimant in M.C.O.P. No. 2433 of 2013, on the file of the II Court of Small Causes, (Motor Accident Claims Tribunal), Chennai. He filed the said claim petition, claiming a sum of Rs.46,00,000/- as compensation for the injuries sustained by him in the accident that took place on 11.11.2012.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Car belonging to the 1st respondent and directed the 2nd respondent as insurer of the said vehicle to pay a sum of Rs.5,52,000/- as compensation to the appellant.

4.Not being satisfied with the amounts awarded by the Tribunal, the appellant has come out with the present appeal.

5.Learned counsel appearing for the appellant contended that in the accident, the appellant sustained multiple fractures in the right leg thigh bone for which plates and screws were fixed. The circumference of the thigh bone has been reduced by 3 cm and also the knee movements is restricted. The appellant also suffered severe injury in the right eye leading to blurred vision. Due to nerve injuries, blood circulation have reduced. The appellant was immobilized for more than five months and was attended by his family members. The sum of Rs.10,000/- awarded by the Tribunal towards attendant charges is meagre. The appellant sustained multiple fractures and the Tribunal has not awarded any amount for loss of marital prospects and loss of earning power. The Tribunal erred in awarding only Rs.50,000/- towards transportation, extra nourishment and other miscellaneous expenses. The amount awarded by the Tribunal towards pain and suffering is meagre. The total compensation awarded by the Tribunal is meagre and prayed for enhancement of the same.

6.The learned counsel appearing for the 2nd respondent-Insurance Company made submissions in support of the award passed by the Tribunal and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellant as well as the 2nd respondent and perused the materials available on record.

8.It is the contention of the appellant that in the accident, he suffered multiple fractures in the right leg thigh bone for which plates and screws were fixed and took treatment as in-patient in Preethi Hospital from 12.11.2012 to 21.11.2012. The appellant was aged 5 years at the time of accident. His mother also sustained injury in the same accident and has taken

treatment as in-patient in the Hospital. Hence she would not have attended the appellant and the appellant would have been attended by some family members. Hence, the amount awarded by the Tribunal towards attendant charges is enhanced from Rs.10,000/- to Rs.25,000/-. Considering the age of the appellant and the nature of injuries, the consolidated meagre sum of Rs.50,000/- awarded by the Tribunal towards transportation, extra nourishment and miscellaneous expenditures is enhanced to Rs.75,000/-. The Tribunal has awarded meagre amount of Rs.50,000/- towards pain and suffering and Rs.25,000/- towards loss of amenities and hence, the same are enhanced to Rs.1,00,000/- and Rs.50,000/- respectively. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Transportation , nourishing food and miscellaneous expenditure	50,000/-	75,000/-	Enhanced
2.	Medical expenses	17,000/-	17,000/-	Confirmed
3.	Attendant charges	10,000/-	25,000/-	Enhanced
4.	Disability	4,00,000/-	4,00,000/-	Confirmed
5.	Pain and suffering	50,000/-	1,00,000/-	Enhanced
6.	Loss of amenities	25,000/-	50,000/-	Enhanced
	Total	5,52,000/-	6,67,000/-	Enhanced by Rs.1,15,000 /-

9. In the result, appeal is partly allowed and the amount awarded by the Tribunal at Rs.5,52,000/- is enhanced to Rs.6,67,000/- together with interest and costs. The 2nd respondent-Insurance Company is directed to deposit the enhanced award amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No. 2433 of 2013. On such deposit, the award amount is directed to be deposited in any one of the Nationalized Banks, till the minor

appellant attains majority. The mother of the minor appellant is permitted to withdraw the accrued interest, once in three months for the welfare of the minor appellant. The appellant is directed to pay the necessary Court fee, if any, on the enhancement amount of Rs.1,15,000/-. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gsa

Copy to

1.The II Judge,
Court of Small Causes,
(Motor Accident Claims Tribunal),
Chennai.

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

+1cc to M/s.M.Swamikannu, Advocate Sr.17418

C.M.A. No. 2581 of 2017

vsn II[co]
srg 03/11/2020

WEB COPY