



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA.NO.2121 OF 2015

Minor D.Naveen Kumar,
Minor represented by Next Friend/Father, Devraj
... Appellant/Petitioner

Vs.

1.J.Gopal
2.S.Sreerangan ... Respondents/ Respondents
3.The New India Assurance Company Limited,
V.R.V.Complex, Bhavani main road,
Perundurai.

(The respondents 1 and 2 remained ex-parte before the Tribunal,
hence notice may be dispensed with for respondents 1 & 2 in this
Appeal)

PRAYER:

This Civil Miscellaneous Appeal has been filed under Section
173 of the Motor Vehicles Act, 1988, to enhance the compensation
awarded in the judgment and decree dated 12.09.2011, made in
M.C.O.P.No.212 of 2009, on the file of MCAT/Additional District
Court, FTC No.4. Bhavani, Erode District, with interest and Cost.

For Appellant	: Mr.Ma.P.Thangavel
For R1 & R2	: Set ex-parte
For R3	: Ms.P.Shobana for M/s.R.Sreevidhya

JUDGMENT

(The case has been heard through video conference)

The claimant/minor is the appellant herein.

2.The minor claim petitioner, who suffered injuries in the
road transport accident on 29.04.2008 has filed a petition in
MCOP.No.212 of 2009, for claiming compensation, on the file of
the Motor Accident Claims Tribunal (learned Additional District
Judge), Fast Track Court No. 4, Bhavani, Erode, and wherein, the
Tribunal has awarded a sum of Rs.2,77,149/- as compensation. As



aggrieved against the same, the minor claim petitioner has filed this Civil Miscellaneous Appeal for enhancement of compensation.

3.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the offending vehicle are not under challenge.

4.Heard the learned counsel for the Insurance Company and the learned counsel for the third respondent.

5.After perusing the records, as per the evidence of PW2/Dr.Karuppannan & PW3/Dr.A.K.Thambiraj, coupled with Ex.P7/discharge summary, Ex.P8/scan report, Ex.P11/surgery notes, it is seen that PW3/Dr.A.K.Thambiraj had issued Ex.P12/permanent disability certificate by fixing the disability as permanent in nature at 85% and could depose that the right hand side kidney of the boy aged about 11 years, studying VI standard at the time of the accident, has been removed, left hand side kidney was badly damaged and abdomen has also been damaged due to the grievous injuries. Further, PW3/Doctor could depose that for the disability sustained, the minor claim petitioner cannot do any work in his future life as earlier and he is disallowed for his studies also and hence, he needs attender for rising and moving rounds safely.

6.After perusing Ex.P7/discharge summary and also taking note of Ex.P11/surgery notes, Ex.P12/permanent disability certificate issued by PW3/Doctor by fixing the disability suffered by the claim petitioner at 85% needs to be confirmed. Accordingly, the permanent disability is fixed at 85% to the boy, aged about 11 years, studying VI standard.

7.In the decision reported in 2014 2 TNMAC (6) SC - (V.Mekala Vs. M.Malathi & another) the Hon'ble Supreme Court has fixed the notional income at Rs.10,000/- for the person studying 11th standard with 50% as a future prospects.

8.Further, it is seen that with regard to the education and for the family background no document has been produced before the Tribunal. However, taking note of the entirety of the circumstances, this Court is of the considered view that the notional income of the boy having suffered such an injury of nature a sum of Rs.7,000/- per month for loss of income with Rs.3,500/- for future prospects will meet the ends of justice. Accordingly loss income is calculated as under:

$$\text{Rs.10,500/-} - (7,000 + 3,500) \times 85\% \times 12 \times 15 = \text{Rs.16,06,500/-}.$$

9.In view of the facts as stated supra, for pain and suffering compensation awarded by the Tribunal is enhanced to Rs.25,000/- from Rs.10,000/- and for transportation, awarded



amount is enhanced to Rs.10,000/- from Rs.2,000/-. Considering the nature of the injury sustained and also the specific evidence of PW2/Karuppannan, future medical expenses should be more and in order to maintain the physically well being of the injured person, this Court is inclined to award a sum of Rs.75,000/- for future medical expenses. For attender charges during the period of treatment and also for the remaining period of life notionally fixed at Rs.50,000/-, and for loss of amenities the compensation awarded by the Tribunal Rs.10,000/- is confirmed. Accordingly, the compensation under various heads as enhanced by this Court is shown as under:

S.No.	Description	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1	Loss income	2,29,500/-	16,06,500/-
2	Pain and Suffering	10,000/-	25,000/-
3	Medical Expenses	25,649/-	75,000/-
4	Transportation	2,000/-	10,000/-
7	Attendant Charges	---	50,000/-
8	Loss of amenities	10,000/-	10,000/-
	Total	2,77,149/-	17,76,500/-

Hence, compensation awarded by the Tribunal is modified from Rs.2,77,250/- to Rs.17,76,500/- (Rupees Seventeen Lakhs Seventy Six Thousand and Five Hundred Only).

11.In the result,

(a)This Civil Miscellaneous Appeal is partly allowed to the limited extent indicated as above.

(b)The 3rd respondent herein/Insurance Company is directed to deposit the enhanced award amount to the credit of MCOP.No.212 of 2009, on the file of the Motor Accident Claims Tribunal, Additional District Court, FTC No.4. Bhavani, Erode District, within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

(c)The award amount will carry interest at the rate of 7.5% per annum, from the date of filing of the petition till the date of payment.

(d)On such deposit, the claim petitioner is permitted to



withdraw the modified compensation amount, less the amount already withdrawn, if any.

(e) The claim petitioner shall pay necessary Court fee, if any, on the enhanced compensation amount.

(f) No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dua

To

1. The Motor Accident Claims Tribunal,
The Additional District Court, FTC No.4,
Bhavani, Erode District.
2. The Section Officer,
V.R.Section, High Court,
Madras-104.

+1cc to Mr.Ma.P.Thangavel, Advocate, S.R.No.17438
+1cc to M/s.R.Sreevidhya, Advocate, S.R.No.18032

CMA.No.2121 of 2015

RR(CO)
PM/20/10/2021