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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2021

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA.No.2778 of 2015

Minor.Kavitha Bhavani, aged about 13 years,
represented by her Father and Natural Guardian,
Mr.Seetharaman,
Vigneshwar Nagar,
Vengal Village,
Thiruvallur Taluk & District ...Appellant/Petitioner

Vs.

1.G.Rajkumar
(R-1 Set Ex-parte in the Lower Court)

2.The Manager,
United India Insurance Company Limited.,
No.73-C, MDH Road,
Ambattur, Chennai - 600 053. ...Respondents/Respondents

PRAYER: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the order and decree dated 15.10.2014, made in MCOP.No.86 of 2012, by the Motor Accident Claims Tribunal cum learned Subordinate Judge, Thiruvallur.

For Appellant : Mr.S.Gopi

For R1 : Ex-Parte

For R2 : No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the appellant viz., minor Kavitha, against the award passed by the



Tribunal in MCOP.No.86 of 2012.

2.The claimant/appellant herein has filed a petition in M.C.O.P.No.86 of 2012, on the file of the Motor Accidents Claims Tribunal/Subordinate Court, Thiruvallur, for the injuries sustained in the road transport, to claim compensation for the partial permanent disability. Accordingly, the Tribunal has awarded an amount of Rs.61,000/- as compensation and hence, the claimant has filed this Civil Miscellaneous Appeal for enhancement of compensation awarded by the Tribunal.

3.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the first respondent's vehicle, which was insured with the second respondent/Insurance Company are not in dispute.

4.Heard the learned counsel for the appellant on the point of quantum. First respondent set ex-parte before the Lower Court and there is no appearance on behalf of the second respondent. Perused the materials placed on record.

5.Before the Tribunal, during the course of Trial, on the side of the petitioner PW1 & PW2 were examined and marked Exs. P1 to P8 and on the side of the respondents no witness has been examined.

6.On a perusal of Ex.P8/Disability Certificate, which was issued by PW2/Dr.J.R.R.Thiyagarajan, it is seen that the doctor has fixed the disability at 60%, however, the Tribunal has fixed the disability at 20%. Further after going through the evidence of PW2/Doctor and also nature of the injuries sustained by the claim petitioner/appellant as reflected in Ex.P8/Disability Certificate, this Court finds that the partial permanent disability may be fixed at 40%. Accordingly, this Court is inclined to fixed the partial permanent disability at 40% and a sum of Rs.2,000/- is fixed for one percentage. Accordingly, the compensation awarded by the Tribunal for disability is reassessed as under:

$$40\% \times \text{Rs.}2000 = \text{Rs.}80,000/-$$

and compensation under various heads is reassessed as under:



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S.No.	Description	Amount awarded by the Tribunal(in Rs.)	Amount awarded by this Court (in Rs.)
1	Disability	40,000/- (20% x 4000)	80,000/- (40% x 4000)
2	Attenders charges	3,000/-	10,000/-
3	Nutrition and Extra Nourishment	3,000/-	10,000/-
4	Transportation Charges	5,000/-	10,000/-
5	Pain and Loss of Amenities	10,000/-	--
7	Pain and suffering	---	25,000/-
8	Loss of amenities	---	10,000/-
	Total	61,000/-	1,45,000/-

Hence, compensation awarded by the Tribunal is reassessed and enhanced from Rs.61,000/- to Rs.1,45,000/- (Rupees One Lakh Forty Five Thousand Only).

7.In the result,

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

(b)The respondents are jointly and severally liable to pay the enhanced award amount as ordered by this court to the credit of MCOP.No.86 of 2012, on the file of the Motor Accident Claims Tribunal/learned Subordinate Judge, Tiruvallur, 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 enhanced award amount will carry interest at the rate of 7.5% per annum from the date of petition till the date of payment.

(d)On such deposit, the petitioner is permitted to withdraw the enhanced award amount after she attains majority and till that time, the respective amount will be deposited in any one of the nationalized bank.



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

(f)No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal
cum learned Subordinate Judge,
Thiruvallur.

Copy To

The Section Officer,
V.R.Section,
High court, Madras.

CMA.No.2778 of 2015

RP(CO)
SB(16/09/2021)