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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.NO.3395 OF 2019

(THROUGH VIDEO CONFERENCING)

Minor.Dinesh babu
Rep.by his mother Malathi as
natural guardian and next friend

(Cause Title accepted vide order of Court
dated 26.07.2019 made in CMP.No.15388 of 2019
in CMA.SR.No.10082 of 2019)

.. Appellant/Claimant

.vs.

1.Karunakaran
(R1 remained exparte before the Tribunal
hence his presence may be dispensed with)

2.Reliance General Insurance Company Ltd.,
Rai's Tower, Plot No.2054, 2nd Avenue,
2nd Floor, Next to Senthil Nursing Home,
Anna Nagar, Chennai 600 040.

... Respondents/Respondents

Prayer:

Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 06.09.2018 made in M.C.O.P.No.2246 of 2012 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes) Chennai.

For Appellant : M/s.A.Subadra for
M/s.M.Malar

For 2nd Respondent : Mr/s.C.Bhuvanasundari



J U D G M E N T

The claimant is the appellant in this appeal. She is aggrieved by the impugned Judgment and Decree dated 06.09.2018 passed by the learned (III Court of Small Causes) Chennai in M.C.O.P.No.2246 of 2012 .

2. By the impugned Judgment and decree, the Tribunal has awarded a sum of Rs.1,88,000/- as compensation together with interest at 7.5% from the date of the claim petition till the date of deposit to the appellant/claimant.

3. The break up of the amount awarded by the Lower Court are summarised below:-

Disability	Rs. 50,000/-
Pain and suffering	Rs. 50,000/-
Extra nourishment	Rs. 7,500/-
Transport to hospital	Rs. 7,500/-
Damages to clothes	Rs. 500/-
Attender charges	Rs. 300/-
Medical expenses	Rs. 53,684/-
Future Medical expenses	Rs. 7,500/-
Loss of Education	Rs. 5,000/-
Loss of Amenities	Rs. 5,000/-
Total	Rs.1,87,984/- Rounded off to Rs.1,88,000/-

4. Aggrieved by the same, the present Civil Miscellaneous Appeal has filed by the appellant/claimant for enhancement of compensation.

5. In the claim petition, it was stated that on 03.08.2011 at about 13.15 hrs., when the minor claimant was walking on the road at Thailavaram, Selva Vinayagar Koil, insured Bajaj Discover motorcycle bearing Reg.No.TN-19-C-6697 belonging to the 1st respondent insured with the 2nd respondent was driven in a rash and negligent manner and knocked the minor claimant, as a result of which, the claimant sustained grievous injuries. Therefore, the claim petition was filed by the appellant/claimant for compensation.



6. The appellant/claimant, was a minor aged about 9 years at the time of the accident. She met with an accident on 03.08.2011 and suffered grievous injuries. As per the claim petition, the appellant/claimant suffered the following injuries:-

- i) Head injury
 - ii) crush injury right foot,
 - iii) Post traumatic raw area right foot darsun
- S.S.G.done and multiple injuries all over the body.

7. The learned counsel for the appellant submits that the Tribunal has failed to consider the injuries sustained by the injured. The Tribunal has fixed the disability at 25% and awarded Rs.2,000/- per percentage that comes to Rs.50,000/-. It is submitted that the compensation awarded under the head of permanent disability is meagre. It is submitted that the Tribunal ought to have awarded compensation under the various heads are also very meagre. Hence, prayed for setting aside the award of the Tribunal.

8. The learned counsel for the second respondent- Insurance Company submits that the impugned Judgment and decree is well reasoned and requires no interference. Hence he prayed for dismissal of the present appeal.

9. Heard the learned counsel for the appellant and the 2nd respondent and I have perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

10. The Tribunal has by and large awarded a just compensation except for not awarding any compensation on the following two items viz., i) attender charges 2) Future medical expenses. Therefore, the amount awarded towards these two items are enhanced to Rs.5,000/- and Rs.7,500/- respectively.

11. Consequently, there shall be a further enhanced amount of Rs.12,500/-. The amount of compensation awarded under the other heads are confirmed. The compensation is re-quantified as follows:-



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Disability	Rs. 50,000/-
Pain and suffering	Rs. 50,000/-
Extra nourishment	Rs. 7,500/-
Transport to hospital	Rs. 7,500/-
Damages to clothes	Rs. 500/-
Attender charges	Rs. 5,300/-
Medical expenses	Rs. 53,684/-
Future Medical expenses	Rs. 15,000/-
Loss of Education	Rs. 5,000/-
Loss of Amenities	Rs. 5,000/-
Total	Rs. 2,00,484/-
	Rounded off to Rs.2,01,000/-

12. The second respondent - Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.2,01,000/- together with interest at 7.5% per annum to the credit of M.C.O.P.No.2246 of 2012 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes) Chennai. from the date of the claim petition till the date of such deposit, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

13. Since the appellant was aged about 9 years at the time of filing of the claim petition and would have attained the age of majority, the appellant is permitted to file appropriate application for recording the age of majority and to withdraw the compensation amount together with interest thereon, less any amount already withdrawn, by filing suitable application before the Tribunal.

14. Accordingly, this Civil Miscellaneous Appeal is partly allowed. No cost.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kkd



To

The Motor Accident Claims Tribunal,
(III Court of Small Causes) Chennai.

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+1cc to M/s.M.Malar, Advocate, S.R.No.23864

C.M.A.No.3395 of 2019

BS (CO)
CS/08/09/2021