



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA No.1389 of 2020

Minor Naveen (8),
Rep. by his next friend/Guardian / Father
Muthukumaran ... Appellant

Vs

1. Dhilipkumar Jain

2. The National Insurance Co., Ltd.,
No.7, Raja Street, P.B.No.19,
Gobichettipalayam, Erode.

3. Karthik ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in MCOP No.250 of 2016, dated 05.12.2019 on the file of the Motor Accident Claims Tribunal / Special Subordinate Judge, Erode.

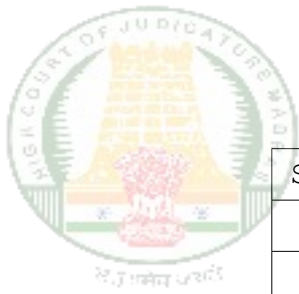
For Appellant :Mr.T.S.Arthanareeswaran

For Respondent :Mr.S.Vadivel

J U D G M E N T

The claimant who was favoured with an award for a sum of Rs.3,79,000/- as compensation for the injuries suffered by him in the Motor Accident that occurred on 20.01.2016, is on appeal seeking enhancement.

2. According to the claimant, as a result of the said accident, he suffered grievous injuries in the right leg and he has undergone skin grafting. The accident has also resulted in permanent disability. Though the claimant has assessed the compensation at Rs.15,00,000/-, he has restricted the claim to Rs.5,00,000/-. The Tribunal, upon consideration of the nature of injuries and their seriousness, awarded a sum of Rs.3,79,000/- under various heads which are as follows:



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S.No.	Headings	Amount in Rs.
1	Loss of earnings	Nil
2	Transport to Hospital	8,000
3	Extra nourishment	7,000
4	Attender Charges	5,000
5	Future Medical Expenses	Nil
6	Damages for Cloths and Articles	2,000
7	Medical Expenses	27,000
8	Pain and sufferings	30,000
9	Permanent Disability @ Loss of Earning Power	3,00,000
	Total	3,79,000

3. Mr.T.S.Arthanareeswaran, learned counsel appearing for the claimant would contend that the claimant has not been awarded any amount for future medical expenses and disfigurement. He would also point out that the claimant was of a tender age at the time of accident and it has a lasting impact on life.

4. Contending contra, Mr.S.Vadivel, learned counsel appearing for the Insurance company would submit that the Tribunal has chosen to rely upon the Judgment in Master Mallikarjun Vs. Divisional Manager, National Insurance Company Ltd., anr., reported in 2013 (2) TN MAC 338 (SC) for granting compensation for disability at slab rates. If the Tribunal has adopted the percentage method for awarding compensation for permanent disability, the percentage of disability being assessed at 25%, the award would have been much lower.

5. I have considered the submissions of the learned counsel for the parties.

6. As already pointed out by the learned counsel for the claimant, no amount has been awarded for future medical expenses and for disfigurement. A perusal of discharge summary shows that the skin drafting was done. Thus, some disfigurement had occurred. The claimant was a minor boy at the time of accident.



7. Considering the above, I am of the opinion that the Tribunal would have done well to award certain amount towards future medical expenses and also towards disfigurement. Therefore, I am of the considered opinion that a sum of Rs.25,000/- could be awarded towards future medical expenses and a sum of Rs.20,000/- towards disfigurement. The total award is enhanced to Rs.4,24,000/- which is rounded off to Rs.4,25,000/- (Rupees four lakh twenty five thousand only).

8. In the result, this Civil Miscellaneous Appeal is partly allowed. As the Tribunal has observed that the Insurance Company shall recover the compensation awarded, from the owner of the vehicle, the Insurance Company is at liberty to recover the enhanced compensation also from the owner of the vehicle. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

vum
To

The Motor Accident Claims Tribunal
/ Special Subordinate Judge, Erode.

+1cc to M/s.S.Vadivel, Advocate Sr.59723

CMA No.1389 of 2020

vsn-II[co]
srg 16/02/2022