



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

CIVIL MISCELLANEOUS APPEAL No.2110 of 2021

Minor J.Thushyanth ... Appellant
rep. by his next friend Guardian Father,
M.Jayamurugesan

Vs.

1. The Chairman,
The Optimus Public School,
No.550B, Sevagoundanur,
Periyapuliyur,
Kavindapadi Main Road,
Bhavani Taluk,
Erode District - 638 452.
2. United India Insurance Company Ltd.,
Muthaiha Complex,
No.1170, Mettur Road,
Erode District - 638 011. .. Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree in M.C.O.P.No.808 of 2017, dated 21.11.2020 on the file of Motor Accidents Claims Tribunal, Special District Judge, Erode.

For Appellant : Mr.S.P.Yuaraj

For 1st Respondent : No appearance

For 2nd Respondent :Mr.D.Bhaskaran

J U D G M E N T

Aggrieved by the judgment and decree dated 21.11.2020 passed by the Motor Accidents Claims Tribunal (Special District Judge), Erode in M.C.O.P.No.808 of 2017, the injured minor Claimant has come up with this Civil Miscellaneous Appeal, seeking enhancement of compensation.



2. According to the minor Claimant, on 11.07.2016, when he was travelling as a pillion rider in the motor cycle bearing Registration No.TN 30 AM 4591, the driver of an Eicher Van bearing Registration No.TN 36 U 7099 drove the vehicle in a rash and negligent manner, due to which he sustained grievous injuries all over the body. Before the Tribunal, he filed a Claim Petition claiming a sum of Rs.7,00,000/- as compensation for the injuries.

3. Before the Tribunal, on the side of the minor Claimant, P.Ws.1 and 2 were examined and Exs.P1 to P12 were marked. On the side of the Respondents, no witness was examined and no document was marked.

4. The Tribunal, on a consideration of the entire oral and documentary evidence, awarded a sum of Rs.1,69,219/- as compensation to the minor Claimant, under the following heads:

Head	Amount (Rs.)
Pain and Suffering	50,000.00
Medical expenses	99,219.00
Attender charges	10,000.00
Transportation expenses	5,000.00
Extra Nourishment	5,000.00
Total	1,69,219.00

5. Learned counsel for the Appellant/Claimant contended that, the Tribunal failed to note that, the minor Claimant was hospitalized for 12 days and it ought to have awarded more amount under the heads, 'Transportation expenses', 'pain and suffering', 'Extra Nourishment' and 'Attender Charges'.

6. Learned counsel appearing for the 2nd Respondent/Insurance Company drew the attention of this Court to the communication dated 12.07.2021 addressed by the learned counsel for the minor Claimant to the 2nd Respondent/Insurance Company, wherein, it is stated that, the Claimant has agreed to settle the matter by reducing the rate of interest to 7.5% per annum from 9% per annum awarded by the Tribunal. According to the learned counsel for the 2nd Respondent/Insurance Company, after having accepted for a final settlement, the Claimant ought not to have filed the present Appeal on 22.07.2021, seeking enhancement of compensation.



7. Heard the learned counsel on either side and perused the material documents available on record.

8. Admittedly, at the time of accident, the minor Claimant was seven years old and for the injuries sustained by him, he was hospitalized for 12 days. However, a glance of Ex.P6 - Discharge Summary makes it clear that, the minor Claimant has not suffered any disability.

9. The contention of the learned counsel appearing for the 2nd Respondent/Insurance Company that, Medical Bills of the minor Claimant have been exorbitantly increased, has been discussed by the Tribunal in paragraph 9 of the Award. Hence, the Tribunal, after omitting certain Medical Bills, has granted only a sum of Rs.99,219/- as compensation towards Medical expenses.

10. The further contention of the learned counsel appearing for the 2nd Respondent/Insurance Company that, the claim of the minor Appellant/Claimant is hit by waiver, appears to be sound. Hence, enhancement of compensation can be considered only under the head 'extra nourishment'. Accordingly, Rs.5,000/- awarded under the head 'extra nourishment' is enhanced to a sum of Rs.15,000/-.

11. Accordingly, compensation awarded by the Tribunal is modified as per the details, tabulated below:

Head	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed/enhanced/reduced
Pain and Suffering	50,000.00	50,000.00	Confirmed
Medical expenses	99,219.00	99,219.00	Confirmed
Attender charges	10,000.00	10,000.00	Confirmed
Transportation expenses	5,000.00	5,000.00	Confirmed
Extra Nourishment	5,000.00	15,000.00	Enhanced
Total	1,69,219.00	1,79,219.00	Enhanced

12. In fine, compensation of a sum of Rs.1,69,219/- awarded by the Tribunal is enhanced to a sum of Rs.1,79,219/- (Rupees One Lakh Seventy Nine Thousand Two Hundred and Nineteen only). The 2nd Respondent/Insurance Company is directed to deposit the modified Award amount along with interest at 9% per



annum from the date of filing the Claim Petition till the date of deposit, less the amount already deposited, if any, to the credit of M.C.O.P.No.808 of 2017 on the file of Motor Accidents Claims Tribunal (Special District Judge), Erode, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank Account of the minor Appellant/Claimant through RTGS, within a period of two weeks.

In the result, the Civil Miscellaneous Appeal is disposed of. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

(aeb)

To:

The Motor Accidents Claims Tribunal
Special District Judge, Erode.

Copy To

The Section Officer,
V.R. Section, High Court of Madras,
Chennai 600 104.

+lcc to Mr.S.P.Yuaraj, Advocate SR.No.40462

C.M.A. No.2110 of 2021

CA (CO)
GMY (01/04/2022)