



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.M.A.No.843 of 2018

R.yogesh (minor) ... Appellant/petitioner
[Minor appellant represented
by his father N.F.Ragu]

Vs.

1.M.Mohammed Saddam
2.The New India Assurance Co. Ltd.,
No.45, Moore Street,
Chennai 600 002. ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and Decree made in M.C.O.P.No.478 of 2015, dated 12.01.2018 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.K.Suryanarayanan
For R2 : Mr.K.Vinod

J U D G M E N T

Heard Mr.Suryanarayanan, learned counsel for the appellant and Mr.K.Vinod, learned counsel for the 2nd respondent.

2. The entire issue revolves around the accident suffered by a young boy aged 15 years, necessitating filing a petition under Section 166 of the Motor Vehicles Act and Rule 3 of the Motor Accidents Claims Rules seeking compensation for the injuries suffered by him.

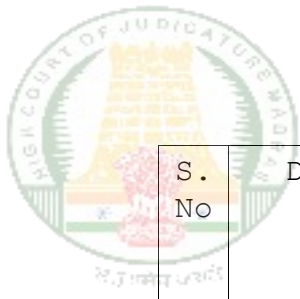
3. A perusal of the records shows that the claimant had suffered injury which can be broadly described as "fracture shaft femure lest with vascular injury". Even on the face of it, that injury would indicate that the bone had fractured and a vascular injury had also been suffered by him and that the tendons and the muscles had also been cut. Naturally, even if the fracture is



restored, since the tendon and the muscle would not be healed, the healing of fracture would not be of much significant advantage to the claimant. Both will have to be simultaneously treated and both would have to heal and this particular treatment involves both original external fixation of support and later internal fixation of support. After one year, the boy was again admitted to the hospital.

4.Exs.P5 and P6 established that the injury was a direct result of the accident and Exs.P11 to P13 relate to the medical records of the claimant. P.W.2/Doctor was also examined. The Doctor had opined that the injury suffered would indicate that the claimant/appellant suffered 45% disability. The Tribunal on the other hand fixed 35% disability.

5.However, taking into consideration the fact that the young boy had suffered serious injury, necessitating taking him to the hospital on two separate occasions. I am of the view that the opinion of an expert to determine disability at 45% can be considered. The Tribunal had also fixed a sum of Rs.3,000/- for 1% disability and I find no reason to disagree with the same and that amount is retained. The other aspects are also retained. Though the learned counsel for the second respondent indicated that the amount of Rs.75,000/- granted towards pain and sufferings can be re-visited by this Court, I would rather not. Since the young boy may find it difficult to do normal activities, which by a college going student would be like to do in sports and cultural programs, I would retain the sum of Rs.75,000/- towards pain and sufferings. The other aspects regarding compensation for extra-nourishment, transportation, damages to clothes and attendant charges are not interfered with. The medical bills at Rs.3,45,000/- which has been established by Ex.P8, had been accepted by the Tribunal. I would not interfere with that particular aspect. A sum of Rs.10,000/- had been granted towards future medical expenses. I would take into account, the fact that the compensation has been granted towards disability, naturally there should be increase in future medical expenses and that can be revised to Rs.30,000/-. Not much arguments were advanced with respect to the nature of compensation granted towards loss of education and an amount of Rs.15,000/- is retained. For loss of amenities a sum of Rs.10,000/- was granted and that is retained. So therefore, the compensation is awarded as below:



S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or reduced
1.	Disability	Rs.1,05,000/-	Rs.1,35,000/-	Enhanced
2.	Pain and sufferings	Rs.75,000/-	Rs.75,000/-	Confirmed
3.	Extra-nourishment	Rs.10,000/-	Rs.10,000/-	Confirmed
4.	Transport to Hospital	Rs.5,000/-	Rs.5,000/-	Confirmed
5.	Damages to clothes	Rs.1,000/-	Rs.1,000/-	Confirmed
6.	Attender charges	Rs.4,000/-	Rs.4,000/-	Confirmed
7.	Medical Expenses	Rs.3,45,000/-	Rs.3,45,000/-	Confirmed
8.	Future Medical Expenses	Rs.10,000/-	Rs.30,000/-	Enhanced
9.	Loss of Education	Rs.15,000/-	Rs.15,000/-	Confirmed
10.	Loss of Amenities	Rs.10,000/-	Rs.10,000/-	Confirmed
	Total	Rs.5,80,000/-	Rs.6,30,000/-	Enhanced by Rs.50,000/-

6. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.5,80,000/- is hereby enhanced to Rs.6,30,000/- [Rupees Six Lakhs and Thirty Thousand only] together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent/Insurance Company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to any one of the Nationalized Banks, in any interest bearing Fixed Deposit Scheme, till the minor appellant/claimant attains majority. On such deposit, the guardian of the minor appellant viz., NF Ragu, being the father of the minor appellant/claimant is permitted to withdraw the accrued interest once in three months for the welfare of the



minor appellant/claimant. The appellant is directed to pay the necessary Court fee if any, for the enhanced award amount of compensation. In other aspects, the Award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

Sd/-

Assistant Registrar(CCC)

// True Copy //

Sub Assistant Registrar

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To:

1.The Judge, IV Small Causes Court,
Motor Accident Claims Tribunal, Chennai.

Copy to:

The Section Officer,
VR Section, High Court, Madras.

+1cc to Mr.K.Vindo, Advocate SR.No.9609

+1cc to Mr.K.Suryanarayanan, Advocate SR.No.9422

C.M.A.No.843 of 2018

NMI (CO)

CB(11/03/2022)