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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CMA.No.1785 of 2017

B.Rafiq,

Represented by his mother next friend Surya Begam

...Appellant/Claimant

Sole appellant declared as major and his mother Surya Begam discharged guardianship vide order of court dated 27.02.2015 made in MP.No.1 of 2015 in CMA Sr.No.5199 of 2015

Vs.

1.M/s.Greenply Industries Ltd.,
No.126/2, Choolai High Road,
Chennai - 600 112.

2.The New India Assurance Company Ltd.,
No.46, Moore Street,
Chennai - 600 001.

..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the award and decree dated 18.07.2007 passed in MCOP.No.4827 of 2001 by the Motor Accidents Claims Tribunal / Additional District Sessions Judge / Fast Track No.3, Chennai.

For Appellant : Mr.Mathankumar

For N.S.Sivakumar

For Respondents : Ramachandran Sivakumar

J U D G M E N T

This civil miscellaneous appeal has been filed questioning the compensation granted by the learned Motor Accident Claims Tribunal, III Fast Track Court, Chennai in MCOP.No.4827 of 2001 by judgment dated 18.07.2007.

2. The appellant who was the petitioner before the Tribunal is deeply concerned and aggrieved by the quantum of



compensation granted by the Tribunal.

3. The brief facts are that on 06.12.2000, a young boy called Rafiq who was a minor aged about 12 years had been, while crossing the GST Road, hit by a Toyoto Qualis vehicle bearing Registration No.TN.04.H.3409 and had suffered injuries determined as Sub-luxation C2C3, compression, neck injury, haemo thorax left side, left ribs fracture, collapsed disc, head injury and multiple injuries all over the body.

4.The Tribunal, on consideration of the facts and also the evidence presented before, had thought that compensation as provided hereunder would meet the ends of justice:

Heads	Amounts
Pain and Suffering	Rs.25,000/-
Transport Expenses	Rs.2,000/-
Extra Nourishment	Rs.3,000/-
Loss of Income	Rs.1,35,000/-
Total	Rs.1,65,000/-

5. The disability was fixed at 50%. The Loss of Income was determined at $\text{Rs.750} \times 12 = \text{Rs.9,500/-}$ per year and taking a multiplier of 15 years, a total sum of Rs.1,35,000/- was granted under that particular head. The total compensation was determined at Rs.1,65,000/-.

6. Questioning such calculation and the award granted, the present civil miscellaneous appeal has been filed.

7. During the pendency of the appeal, the minor boy had attained the age of majority and that fact had been recorded by this Court and his mother and next friend who had represented him during the proceedings before the trial and had also filed this appeal was discharged as guardian.

8. Heard Mr.Mathankumar, learned counsel appearing on behalf of the appellant and Mr.R.Sivakumar, learned counsel appearing on behalf of the 2nd respondent.

9. The Court must place its appreciation for the sanguine manner in which both the learned counsels addressed the points involved.

10. One fact, which disturb me is that the boy who was aged 12 years at the time of accident, and therefore, there could



no loss of earning as it would be run contrary to the normal reasoning. It is however stated that he was working as a helper in a private place.

11. The Tribunal had fixed 50% as the disability and I would not disturb the same. With respect to loss towards transportation to hospital, let me interfere and increase that head to a sum of Rs.7,000/-. With respect to extra nourishment, since he was a young boy, naturally he required some good nourishment. The Tribunal granted a sum of Rs.3,000/- and let me increase it to Rs.8,000/-. With respect to pain and suffering, a sum of Rs.25,000/- had been granted, but it is obvious the mother's pain cannot be quantified, when her son was suffering from injury. The amount granted is also interfered with and it is re-fixed at Rs.30,000/-. The total sum for loss of income had been given at Rs.1,35,000/-, but without indicating the possible suffering of both the boy and the mother. I would interfere with the amount granted and increase it to Rs.1,45,000/-. The total amount therefore comes to Rs.1,90,000/-.

12. With respect to the interest, Mr.R.Sivakumar, learned counsel pointed out that though the accident occurred in the year 2000, the appeal was filed with a delay of 2794 days. Naturally, interest cannot be mulcted on the 2nd respondent for the particular period of delay in filing the appeal. Therefore, while calculating interest, which is to be calculated from the date of filing of the appeal, the interest for 2794 days may be deducted and for the balance number of days or years, the interest may be granted to the appellant herein. Interest is to be granted at 7.5% Simple Interest.

13. The Civil Miscellaneous Appeal is partly allowed in the above terms. The award is enhanced to Rs.1,90,000/-. The Insurance Company / 2nd respondent shall deposit the enhanced compensation amount with simple interest of 7.5 % after deducting the interest portion for 2794 days from the date of filing of the appeal till date of deposit within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the same. No order as to costs.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar



smv

To:-

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1.The Motor Accident Claims Tribunal,
III Fast Track Court, Chennai.

+lcc to Mr.N.S.Sivakumar, Advocate SR.No.7925

+lcc to Mr.R.Sivakumar, Advocate SR.No.8442

CMA.No.1785 of 2017

RSV (CO)

CB (28/02/2022)