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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:01.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CMA No. 3147 of 2017

Minor Gobi ... Appellant/Petitioner
Rep.by Next Friend/Father Mani
Vs

1. Sekar ... 1st Respondent / Respondent
(Notice to R1 may be dispensed with
for the time being since he was set
exparte before the tribunal)
2. The Divisional Manager
United India Insurance Company Limited.,
No.2, Dr.Sankaran Road, Namakkal-1
... 2nd Respondent/2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V. Act, 1988 to set aside the order made in M.C.O.P.No. 837 of 2013 on the file of the Motor Accident Claims Tribunal cum Additional District Court, Namakkal, dated 28.10.2014 and for enhancement of compensation.

For Appellant : Mr. C. Kulanthaivel

For 1st Respondent : Ex-parte

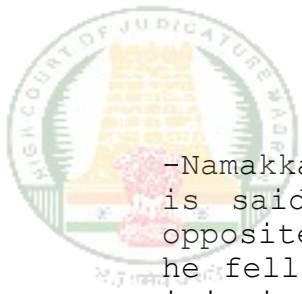
For 2nd Respondent : M/s. I.Malar

J U D G M E N T

The claimant in M.C.O.P.No. 837 of 2013 on the file of the Motor Accident Claims Tribunal cum Additional District Court, Namakkal, is the appellant herein.

2. The said M.C.O.P.No. 837 of 2013 had been filed by the claimant, who was a minor and represented by his father, seeking compensation for the injuries suffered on 29.03.2013. The claimant/appellant was aged about 13 years and was a student studying in 9th standard.

3. On 29.01.2013 in the evening at around 5.30 p.m., when the claimant was travelling in a cycle, in Erumapatti



-Namakkal Road, a vehicle bearing Registration No. TN-22-AV-2920 is said to have come in a rash and negligent manner in the opposite direction and dashed against the cycle, owing to which, he fell down and suffered injuries. The claimant suffered head injuries and also suffered fracture of the right thigh bone. There were also other injuries.

4. The claimant was first admitted to Akshaya Hospital at Namakkal and later shifted to Iswaryam Hospital at Salem, for further treatment. He was an inpatient in that hospital and surgery was conducted both in the head and also on the legs for the injuries suffered.

5. He claimed a sum of Rs.15,85,000/- towards compensation. The medical records were also produced. The Tribunal on the basis of the evidence adduced, determined liability on the vehicle bearing Registration No. TN-22-AV-2920. The second respondent/Insurance Company liability was therefore fastened.

6. Thereafter, the Tribunal proceeded to determine the compensation, to be paid for the injury suffered. Taking into account, the age of the claimant, who was aged about 13 years, the Tribunal determined the probable annual income at Rs.15,000/- and adopted multiplier of '15'. Thereafter, the Tribunal also determined the injuries suffered at 60% disability and came to a compensation for loss of income at Rs.1,35,000/-. The Tribunal also granted compensation under other heads which are not in dispute and granted a total compensation of Rs.8,46,627/-.

7. I would interfere to the extent of the annual income fixed at Rs.15,000/- and revise that to Rs.45,000/-. The multiplier of '15' and 60% disability are retained. This would indicate that the loss of income would be $(45,000 \times 15 \times 60\% 100)$, which is Rs.4,05,000/-.

8. I would retain the compensation granted under all the other heads. The compensation therefore granted is as follows:-

1. loss of consortium (45000 x 15 x 60%100)	:	Rs. 4,05,000 /-
2. Medical Expenses	:	Rs. 3,66,627/-
3. Transport to Hospital	:	Rs. 10,000/-
4. Pain and suffering	:	Rs. 2,00,000/-
5. Nutrients	:	Rs. 10,000/-
6. Damages to clothes	:	Rs. 1,00,000/-
7. Attender charges	:	Rs. 25,000/-

	Total	Rs. 11,16,627/-



9. It is now stated that the petitioner has attained the majority.

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10. The Appeal is allowed to that particular extent. No costs. The enhancement in compensation is at Rs.2,70,000/-.

11. The second respondent is directed to deposit the enhanced amount less the amount already deposited, if any, with interest at the rate of 7.5% per annum from the date of filing of the petition till date of deposit within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the appellant/claimant is permitted to withdraw the award amount, after adjusting the amount, if any, already withdrawn.

Additional Court Fee filed vide USR.12544 dated 11.04.2022

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

vsg

To

1. Additional District Court
Motor Accident Claims Tribunal
Namakkal.

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

+1cc to Mr.C.Kulanthaivel, Advocate, S.R.No.13550
+1cc to Mr.T.Ravichandran, Advocate, S.R.No.13622

CMA No. 3147 of 2017

KJ(CO)
SB(26/04/2022)