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C.M.A.No.1125 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.1125 of 2019

Sharmila (Minor)

Represented by Mother and
Natural Guardian Elizabeth

.. Appellant

Vs.

1.C.Ayyappan

2.The Divisional Manager

The New India Assurance Company Ltd.,
No.1, Bharathi Road
Cuddalore.

..Respondents

Prayer: The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 13.08.2018 made in MCOP No.126 of 2015 on the file of the Motor Accident Claims Tribunal/ II Additional District and Sessions Judge, Chidambaram.



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For Appellant : Mr.T.Saravanan

For Respondents : Mr.C.Ramesh for R2
No Appearance for R1

J U D G M E N T

The Award dated 13.08.2018 passed in MCOP No.126 of 2015 on the file of the Motor Accident Claims Tribunal/ II Additional District and Sessions Judge, Chidambaram, is under challenge in the present Civil Miscellaneous Appeal.

2. As could be seen from the Claim Petition, the accident had occurred on 01.12.2014 at 19.00 hours, at Chidambaram - Cuddalore Road, in Pudhuchatram near Rajamurthy Garden. The Puduchatram Police Station registered a case in Crime No.345 of 2014 in connection with the accident. As per the first information report, the minor claimant Sharmila was travelling as a pillion rider in Hero Honda bearing Registration No.TN-31-AR-3348. Due to the accident, she sustained grievous injuries. Hence, the

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claim petition was filed by the mother of the minor claimant.

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3. The Tribunal, on appreciation of both oral and documentary evidence came to the conclusion that the accident occurred only due to the rash and negligent driving of the driver cum owner of the Bajaj Pulser bearing Registration No.TN-31 VM 550motor cycle, who is the 1st respondent herein and hence, directed the 2nd respondent/Insurance company to pay a sum of Rs.3,05,500/- with interest at the rate of 7.5% per annum from the date of claim till the date of realisation as compensation to the minor claimant.

4. Being not satisfied with the quantum of the award, the minor claimant has filed this appeal.

5. The learned counsel appearing on behalf of the minor appellant/claimant mainly contended that the compensation awarded by the Motor Accident Claims Tribunal is not in commensuration with the



grievousness of the injuries sustained by the minor appellant/claimant. At the time of accident, the injured aged about 11 years and studying 8th standard. Due to the accident, the claimant sustained multiple fractures and her left toe got amputated and she could not walk or run as she was prior to the accident. She had taken treatment as inpatient from 01.12.2014 to 13.12.2014 and underwent several surgeries. In such circumstances, the Tribunal ought to have award compensation under the head of future income. The Tribunal has failed to note that the disability percentage of 15% is irrelevant to the permanent injury sustained by the minor appellant/claimant. The compensation awarded under the heads viz., disability, loss of income, attender charges, transport to hospital, extra nourishment and medical expenses is very meagre. Hence, he sought for enhancement of compensation.

6. Per contra, the learned counsel for the 2nd respondent/Insurance Company contended that after considering the oral and documentary evidence, the Tribunal has awarded reasonable compensation and there is no



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need to interfere with the order passed by the Tribunal and hence, he prays for dismissal of the appeal.

7. As seen from the Award, the Tribunal has assessed the disability at 15% based on Ex.C1-disability certificate issued by the Medical Board. As far as the quantum of compensation is concerned, considering the disability sustained by him at 15%, year of the accident and also increase in cost of living, the Tribunal has rightly awarded a sum of Rs.2,25,000/- towards disability and hence, it does not call for any interference by this Court.

8. A perusal of Ex.P10 medical bill, it would reveal that out of the total amount of Rs.92,416/-, the claimant has paid only a sum of Rs.56,097/- towards medical expenses. Hence the Tribunal has rightly awarded the compensation of Rs.56,097/- rounded off to Rs.60,000/- towards present and future medical expenses and therefore, it does not warrant any interference by this Court.



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9. The other heads under which compensation was awarded by the Tribunal appears to be just and fair and they deserve no interference by this Court.

10. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

(ii) The second respondent/insurance company is directed to deposit the award amount of Rs.3,05,500/- with interest at the rate of 7.5.% per annum from the date of claim petition till the date of realization, less the amount if already deposited, within a period of six weeks from the date of receipt of a copy of this judgment.

(iii) On such deposit, the Tribunal is directed to deposit the award amount bearing fixed deposit in any one of the Nationalised Bank till the



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minor appellant/claimant attains majority and the mother of the minor claimant is permitted to withdraw the interest accrued once in six months for the welfare of the minor.

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Index : Yes/No
Speaking Order/Non-Speaking Order
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To

- 1.The Motor Accident Claims Tribunal,
II Additional District and Sessions Judge
Chidambaram.
- 2.The Section Officer,
V.R Section,
High Court, Madras.



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A.A.NAKKIRAN, J.

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