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C.M.A.No.2772 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.2772 of 2016

Minor Karthick

Rep. By Guardian/Father Selvaraj

...Appellant

Vs.

1. A.Krishnan

2. M/s. Sri Ram Gneral Insurance Co. Ltd.,
No.E-8, EPIP RIICO,
Industrial Estate, Sitapura,
Jaipur, Rajasthan – 302 022.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, for enhancement of the award in the Judgment and decree dated 28.03.2014 made in M.C.O.P.No.319 of 2010 on the file of the MACT/Additional District Court at Namakkal.

For Appellant : Mr.Ma.Pa.Thangavel

For Respondents : R1 – Exparte
Mr.S.Dakshanamoorthy, for R2



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JUDGEMENT

Challenging the judgment and decree dated 28.03.2014 made in M.C.O.P.No.319 of 2010 on the file of the MACT/Additional District Court at Namakkal, the claimant is before this Court.

2. The case of the Appellant is that, on 09.06.2010 at about 4.30 p.m., when the appellant/claimant was riding a bicycle on the left side of the road towards his house from his school, a TATA ACE load auto bearing Regn.No. TN-48-H-3510, owned by the 1st respondent, insured with the 2nd respondent, driven by its driver in a rash and negligent manner, came in the same direction in a high speed and hit behind the said bicycle, as a result of which, the appellant sustained multiple injuries all over his body and got admitted in the hospital. Thereby, the appellant/claimant of the deceased filed a claim petition claiming a compensation of Rs.6,00,000/-. After contest, the tribunal, vide impugned judgment awarded a compensation of Rs.5,83,800/-. Aggrieved with the said order, the present appeal has been filed by the claimant, seeking enhancement of the compensation fixed by the tribunal.



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3. Learned counsel appearing for the appellant submitted that, admittedly, the above said accident occurred solely due to rash and negligent driving of the driver of the 1st respondent vehicle, due to which, the appellant sustained grievous injuries all over his body. Further, at the time of accident, the appellant was aged about only 11 years and due to the fatal injuries sustained by him in the said accident, he became vegetative and permanently disabled and is not able to perform his natural duties and the Medical board, after examining the appellant, had assessed the disability sustained by the appellant at the rate of 90% and held that the nature of the disability sustained by the appellant is of permanent in nature. While so, the tribunal, failed to consider the said fact and without adopting the multiplier method, the Tribunal had awarded a sum of Rs.1,80,000/- under the head Disability, which is very meagre. Further, the compensation awarded under the other heads are also on the lower side which required to be interfered with and necessary enhanced compensation has to be granted in favour of the appellant.

4. Per contra, the learned counsel appearing for the 2nd respondent submitted that, by considering all the relevant documents, the Tribunal has



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rightly awarded the compensation, which does not require any enhancement.

Accordingly, he prays for dismissal of the appeal.

5. Heard the learned counsel for the appellant and the learned counsel appearing for the 2nd respondent and perused the materials available on record.

6. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant/claimant is with regard to the quantum of compensation awarded. It is claimed by the appellant that though the appellant/claimant sustained 90% permanent disability, which is evident from the deposition of P.W.3 and P.W.4 and the Ex.P.14, Disability certificate, for which, the appellant is entitled to claim compensation by applying multiplier method, however, the tribunal failed to adopt the multiplier method and awarded only a meagre compensation. It is further claimed by the appellant that the accident is of the year 2010 and at the time of accident, the appellant was aged about only 11 years and due to the injuries sustained by him in the said accident, he attained vegetative state, however, the said fact was not properly adjudicated by the



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tribunal. It has been the view of the Courts that even a housewife is entitled to monthly income to be fixed for the purpose of qualifying their work for the purpose of quantifying the amount receivable by them. Applying the ratio laid down by the Hon'ble Supreme Court in the case of ***Syed Sadiq Vs. United India Insurance Company*** reported in **2014 (1) TANMAC 459**, fixing a notional income of Rs.5,000/- and adding future prospects at 40%, as has been held by the Constitution Bench in the case of ***National Insurance Company Limited Vs. Pranay sethi and others*** reported in **2017 (16) Supreme Court Cases 680**, the total income per month is quantified at Rs.7,000/-and the appellant being aged about 11 years, as evidenced from the records, adopting the multiplier of 18 would be just and reasonable, and as the appellant suffered functional disability of 90%, the loss of income is arrived at Rs.7,000/-
 $*12*18*90\% = \text{Rs.13,60,800/-}$.

7. Insofar as the compensation awarded under the heads Transportation charges and Future Medical Expenditure are concerned, this Court is of the view that the compensation awarded under the said heads are on the lower side and accordingly, the same has to be enhanced. Further, a sum of Rs.12,000/-



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and Rs.80,000/- has been awarded under the head “Injuries” and “Loss due to injury”, which is not sustainable and the same has to necessarily be interfered with. Further, no compensation has been awarded under the heads “Attender charges” and “Loss of Marital life” and therefore a sum of Rs.50,000/- and Rs.1,00,000/- respectively are awarded under the said heads.

8. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Disability	1,80,000/-	13,60,800/-
Pain and sufferings	80,000/-	80,000/-
Extra Nourishment	45,000/-	45,000/-
Transportation expenses	5,000/-	10,000/-
Injury	12,000/-	-
Attender Charges	-	50,000-
Medical Expenses	1,36,802/-	1,36,802/-
Future medical expenses	80,000/-	1,00,000/-
Loss due to injury	80,000/-	-
Loss of marital life	-	1,00,000/-
Total	5,83,802/-	18,82,602/-



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9. Accordingly, the appeal stands allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.5,83,802/-** to **Rs.18,82,602/-**. The 2nd respondent-Insurance company is directed to deposit the said amount to the credit of M.C.O.P.No.319 of 2010 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the appellant through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellant. There shall be no order as to costs in the present appeal.

11.10.2023

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Index	: Yes / No
Speaking Order	: Yes / No
Neutral Citation Case	: Yes / No



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M.DHANDAPANI, J.

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To

- 1.The MACT / Additional District Court, Namakkal.
- 2.The Section Officer, V.R. Section, High Court, Madras.

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