



CMA.No.2774 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.2774 of 2023

Minor Srinivasan

(Minor petitioner rep. by his father
and natural guardian Ravikumar)

... Appellant

-Vs-

1.Ramar Naar

2.United India Insurance Company Limited.,

Divisional Office,

No.73 C, MTG Road, 1st Floor,

Ambattur, Chennai – 53.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V.Act, 1988, against the Judgment and Decree dated 23-08-2022 and made in M.A.C.T.O.P.No.4342 of 2015 on the file of the Motor Accident Claims Tribunal, (Special Sub Court No.1, Motor Accidents Claims Petitions) Small Causes Court, Chennai.

For Appellants : Mr.A.G.F.Terry Chella Raja

For R1 : notice D/w Vide order dt.10.11.2023

For R2 : Mr.J.Chandran



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JUDGMENT

The petitioner is a minor child who had suffered injuries in an accident when he was knocked down by a two wheeler bearing Regn.No.TN 20 P 6336. Seeking compensation, he moved the Tribunal. The disability of the minor child was assessed at 6%. The Tribunal had reckoned the compensation payable under the head permanent disability at Rs.4,000/- for every percentage of disability and has awarded Rs.24,000/-. In all, it had awarded Rs.82,000/-.

2.Challenging the award of compensation payable under the head 'permanent disability' alone, the claimant has come before this Court.

3.The first respondent, the owner of the offending vehicle remained ex-parte before the Tribunal. Hence, notice to the first respondent is dispensed with.

4.Mr.J.Chandran, learned counsel is already on record for the second respondent.



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5.The only contention of the learned counsel for the appellant is that as per the dictum of the Hon'ble Supreme Court in ***Mallikarjun Vs.Divisional Manager, National Insurance Co. Ltd., and another*** [(2014) 14 SCC 396 = 2013 (2) TANMAC 338] for permanent disability up to 10%, Rs.1,00,000/- need to be paid, unless there are exceptional circumstances to take a different yardstick. The learned counsel submitted that that the second respondent has not demonstrated any particular circumstance to reduce the compensation payable to any sum below Rs.1,00,000/-.

6.This Court concurs with the statement of the learned counsel for the appellant.

7.Accordingly, the compensation payable under the head permanent disability is modified and enhanced from Rs.24,000/- to Rs.1,00,000/-. The compensation awarded by the Tribunal under other heads are just and reasonable and hence, the same are confirmed. Thus, the compensation awarded by the Tribunal is enhanced from Rs.82,400/- to Rs.1,58,400/-, break-up as follows -



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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	24,000/-	1,00,000/-	Enhanced
2.	Pain and Sufferings	30,000/-	30,000/-	Confirmed
3.	Transportation	3,000/-	3,000/-	Confirmed
4.	Extra Nourishment	10,000/-	10,000/-	Confirmed
5.	Attender Charges	5,400/-	5,400/-	Confirmed
6.	Loss of Amenities	10,000/-	10,000/-	Confirmed
	Grand Total	82,400/-	1,58,400/-	Enhanced by 76,000/-

8. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.82,400/- is hereby enhanced to Rs.1,58,400/- together with interest at 7.5% per annum from the date of petition till the date of deposit. This Court is informed that the second respondent /Insurance Company had already deposited the sum originally awarded by the Tribunal and it is now



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required to deposit the differential sum with interest, less interest payable for 80 days, within six (6) weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the award amount, now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. The appellant is directed to pay the necessary Court Fee, if any, on the enhanced award amount. No costs.

10.11.2023

Tsg

To

- 1.The Motor Accident Claims Tribunal,
(Special Sub Court No.1,
Motor Accidents Claims Petitions)
Small Causes Court, Chennai.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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N.SESHASAYEE, J.,

Tsg

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