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C.M.A.No.2247 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2247 of 2019

Minor.Monisha
rep. by next friend guardian
Father Ganesan

... Appellant

Vs.

1.M/s.Intel Technology India Private Limited

2.Tata AIG General Insurance Company Limited,
Bombay.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 10.08.2011 made in M.C.O.P.No.188 of 2006 on the file of the Motor Accidents Claims Tribunal (Sub Court) Gingee.

For Appellant : Mr.T.Dhanyakumar
For Respondents : R1 – Not Ready Notice
Mr.K.Vinod for R2

J U D G M E N T

This appeal has been filed against the judgment and decree dated 10.08.2011 passed by the Motor Accidents Claims Tribunal



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(Sub Court) Gingee, in M.C.O.P.No.188 of 2006.

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2.The brief facts of the case is that on 05.01.2006, at about 1.50p.m., the appellant was standing on the left side of the road in the Primary School at Ooranithangal. At that time, a car bearing Registration No.KA 04 MK 25 came in a rash and negligent manner and dashed against the appellant, due to which, the appellant sustained injuries.

3.Thereafter, the injured claimant/ appellant filed claim petition before the Tribunal, claiming compensation of Rs.5 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.34,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realisation and costs and directed that the second respondent to deposit the compensation. Aggrieved by the same, the appellant claimant has filed this appeal for enhancement in compensation.

4.The learned counsel appearing for the appellant submitted that the appellant has filed this appeal questioning the quantum of compensation awarded by the Tribunal. The learned counsel further



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submitted that the Tribunal awarded only Rs.1,000/- per percentage of disability and only a sum of Rs.5,000/- for pain and sufferings which are very very meagre and further submitted that the amount awarded under the other heads are also low. Hence, the appellant is entitled for enhancement in compensation.

5.The learned counsel appearing for the second respondent Insurance Company submitted that at the relevant point of time, Rs.1,000/- per percentage of disability is applicable and hence, the Tribunal awarded Rs.20,000/- for 20% disability. The amount awarded by the Tribunal under the other heads are also just and reasonable, which warrants no interference.

6.Heard the learned counsel appearing for the appellant claimant as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

7.Admittedly, on 05.01.2006, at about 1.50 p.m., the appellant was standing on the left side of the road in the Primary School at Ooranithangal. At that time, the vehicle owned by the first



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respondent and insured with the second respondent came in a rash and negligent

manner and dashed against the appellant, due to which, the appellant sustained injuries. At the time of accident, the appellant was aged about six years.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.20,000/- for disability, Rs.5,000/- for medical expenses, Rs.2,000/- for transport expenses, Rs.2,000/- for extra nourishment, Rs.5,000/- for pain and sufferings and arrived at a total compensation of Rs.34,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realisation.

9.The accident and the manner in which the accident happened are not disputed. The negligence aspect is also not in dispute. The appeal has been filed only questioning the quantum of compensation.

10.The Doctor has assessed the disability of the injured claimant as 20% disability. Since the assessment of disability varies from Doctor to Doctor, this Court fix the disability of the claimant as



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15% and award a sum of Rs.2,000/- per percent of disability. If a sum of Rs.2,000/- is awarded per percent of disability, the amount awarded

under the head for disability works out to Rs.30,000/- [15% X Rs.2,000/- = Rs.30,000/-]. The amount awarded under the other heads, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the other heads. Accordingly, the amount awarded for pain and sufferings is enhanced to Rs.25,000/- from Rs.5,000/-, the amount awarded for transport expenses is enhanced to Rs.5,000/- from Rs.2,000/-, the amount awarded for extra nourishment is enhanced to Rs.5,000/- from Rs.2,000/-, the amount awarded for medical expenses is enhanced to Rs.10,000/- from Rs.5,000/-.

11. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Disability	Rs.20,000/-	Rs.30,000/-
2.	Extra nourishment	Rs. 2,000/-	Rs 5,000/-
3.	Transport expenses	Rs. 2,000/-	Rs. 5,000/-
4.	Medical expenses	Rs. 5,000/-	Rs.10,000/-



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S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
5.	For pain and sufferings	Rs. 5,000/-	Rs.25,000/-
	Total	Rs.34,000/-	Rs.75,000/-

12.The appellant claimant is entitled to total compensation of Rs.75,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realisation.

13.The civil miscellaneous appeal is partly allowed. The judgment and decree dated 10.08.2011 passed by the Motor Accidents Claims Tribunal (Sub Court) Gingee, in M.C.O.P.No.188 of 2006, is modified to the above extent.

14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellant/ claimant is permitted to withdraw the modified/ enhanced award amount, along with accrued interest and costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal and on



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production of necessary proof with regard to her majority. If the appellant is still minor, the modified/ enhanced award amount shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until she attain majority and the interest derived from out of the said share of the minor shall be paid to her Father Mr.Ganesan every quarter to be utilized for the welfare of the said minor. Since the appellant/ claimant was only 6 years old at the time of accident and the period of delay in filing the appeal is only 7 days, the said period shall not be taken into account for calculating the interest, i.e., the interest for the said period shall also be paid to the claimant. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required.

15.The civil miscellaneous appeal is allowed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal

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(Sub Court) Gingee.

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M.DHANDAPANI,J.
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