



C.M.A.No.2295 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :08.09.2023

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

C.M.A.No.2295 of 2018

Minor M.Mohan Prabhu,
Represented by next friend and guardian,
Father Matheswaran,
S/o, Ammasai,
159, Sivanantha Colony,
Muthaiyanvalasu, Khaham Post,
Sivagiri Via, Modakurichi Taluk,
Erode District.

... Appellant

Vs.

1. M.O.Mahaboob Jan

2. Thahirabanu

3. The Branch Manager,
National Insurance Co., Ltd.,
1st Floor, Karthikeya Complex,
403, B-410, Mettur Main Road,
Bhavani, Erode District.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, to enhance the compensation amount awarded in the judgment and decree dated 19.07.2018 made in M.C.O.P.No.332 of 2017 on the file of the learned Special Subordinate Judge, Motor Vehicles Accident Claims Tribunal, Erode.



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C.M.A.No.2295 of 2018

For Appellant : M/s.M.Adhishree
for M/s.N.Manokaran

For R1 : Notice returned as
No such addressee

For R2 : Notice returned as
In sufficient address

For R3 : Mr.D.Bhaskaran

J U D G E M E N T

This Civil Miscellaneous Appeal had been filed by the claimant, challenging the Award dated 19.07.2018 passed in M.C.O.P.No.332 of 2017 on the file of the learned Special Subordinate Judge, Motor Vehicle Accident Claims Tribunal, Erode.

2. The appellant/claimant sustained injuries on 25.10.2016, as a result of an accident caused by the Car bearing registration No.TN-86 0786, which was insured with the third respondent herein. The appellant/claimant preferred a claim petition before the Motor Vehicle Accident Claims Tribunal, Erode, seeking compensation of Rs.10,00,000/- for the injuries sustained by him, on account of the said



C.M.A.No.2295 of 2018

accident. The Motor Accident Claims Tribunal, by its Award, dated 19.07.2018 in M.C.O.P.No.332 of 2017, directed the Insurance Company to pay the appellant, a sum of Rs.3,27,900/- together with interest at 7.5% per annum, from the date of claim petition till the date of realization. Aggrieved by the same, the claimant has filed the present Civil Miscellaneous Appeal, seeking enhancement of compensation.

3. Learned counsel for the appellant/claimant submitted that while the injured claimant is a seven year old boy, who was standing on the left side of the Erode to Muthur road, near Sivanantha Colony bus stop, the driver of the said offending car, had driven the car in a rash and negligent manner and dashed behind the appellant/claimant, due to which, the appellant/claimant sustained fracture on his left side of the hip, fracture of left *sacral bone* and fracture of left *superior pubic rami*. The Tribunal, without considering the nature of injuries sustained by the appellant/claimant, and by considering the medical bills alone, awarded a sum of Rs.21,400/- towards medical expenses, which is a meagre amount. The Tribunal failed to adopt “multiplier method” and awarded a



C.M.A.No.2295 of 2018

sum of Rs.3,00,000/- as lump sum compensation jointly towards pain and sufferings, disability and loss of earning power for 20% functional disability, which is not “just compensation”. Further, he submitted that the Tribunal failed to award adequate compensation towards conventional headings. Hence, he prayed to enhance the compensation awarded by the Tribunal.

4. Learned counsel for the third respondent/Insurance Company has submitted that the injured is a 7 year old boy, who sustained only 20% disability. Hence, the Award passed by the Tribunal towards pain and sufferings, is exorbitant. Further, the appellant/claimant has not proved the manner of accident through proper evidence. The appellant has not proved that there was no contributory negligence on his part for the accident. Therefore, the compensation, as fixed by the Tribunal, does not require any interference by this Court and the present appeal filed by the claimant, challenging the quantum of compensation may be dismissed.



C.M.A.No.2295 of 2018

WEB COPY

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. Admittedly, the injured is aged about 7 year old boy and he sustained injuries as mentioned in the disability certificate and he was referred to Medical Board and after medical examination, the Medical Board issued disability certificate which has been marked as Ex.C1. The Medical Board assessed 20% disability of the injured appellant. Hence, multiplier method will not apply for the nature of the injuries sustained by the appellant/claimant. The Tribunal had taken into consideration the injuries sustained by the claimant and fixed functional disability at 20%. The Tribunal has also taken into consideration the treatment undergone by the claimant and granted a sum of Rs.3,00,000/- towards pain and sufferings, disability and loss of earning power. Since the claimant is aged about 7 year, he is not entitled to get the amount towards loss of earning. Eventhough, the Tribunal awarded compensation towards loss of earning power along with pain and sufferings and disability. Accordingly, the Tribunal granted a sum of Rs.3,27,900/- as



C.M.A.No.2295 of 2018

WEB COPY

compensation to the claimant. The Insurance company has not filed any appeal with regard to the same. The total compensation awarded by the Tribunal does not require any interference at the hands of this Court, as the compensation is “just and proper compensation”.

7. Therefore, under the above facts and circumstances, this Court finds that there is no perversity or illegality or infirmity in appreciation of evidence by the Tribunal and there is no reason to interfere with the impugned Award passed by the Tribunal. Hence, the Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

08.09.2023

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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C.M.A.No.2295 of 2018

To

1. The Special Subordinate Judge,
Motor Vehicle Accident Claims Tribunal,
Erode.
2. The Section Officer,
VR Section,
High Court, Madras.



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C.M.A.No.2295 of 2018

P.VELMURUGAN, J.

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C.M.A.No.2295 of 2018

08.09.2023