



C.M.A(MD)No.996 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2023

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.996 of 2017

Minor.Mohammed Meeran Mohaideen

... Appellant/Petitioner

*(Minor appellant represented through his
father and next guardian jainuladeen)*

Vs.

1.Kumar

2.United India Insurance Company Limited,
Through its Branch Manager,
No.3/E, Balavinayagar Koil Street,
Tuticorin.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to allow the appeal and enhance the award amount in M.C.O.P.No.372 of 2013 on the file of the Motor Accident Claims Tribunal (Special Sub Court), Tirunelvel, dated 25.03.2014.

For Appellant : Mr.T.Selvakumaran

For R1 : No Appearance

For R2 : Mr.A.Shajahan



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JUDGEMENT

The present appeal has been filed seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal, Tirunelveli in M.C.O.P.No.372 of 2013.

2. According to the claim petition, the claimant was a 7 years old boy who got injured in an accident that took place on 16.01.2013 due to the rash and negligent driving of the 1st respondent who is the owner cum driver of the vehicle. The claimant has further contended that in the said accident, the skull bone of the minor boy was completely broken and there was a laceration in the left parietal region of his scalp. They have further contended that there was a punctured wound in the scalp and there was a hemorrhagic contusion in the bilateral fronto parietal region and in left temporal lobe. In the claim petition, a claim was made for a sum of Rs.10,00,000/-.

3. The insurance company had filed a counter disputing the negligence and quantum.



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4. The tribunal after considering the oral and documentary evidence has arrived at a finding that the accident has taken place only due to the rash and negligent driving of the 1st respondent. The tribunal also arrived at a finding that the injured claimant had sustained 28% permanent disability. At the rate of Rs.3,000/- per percentage, the tribunal awarded a sum of Rs.84,000/- towards partial disablement. A sum of Rs.10,000/- was awarded towards the loss of income to the minor boy's parents. A sum of Rs.15,000/- was awarded towards transport charges, extra nourishment and attender charges. A sum of Rs.20,000/- was awarded towards pain and sufferings and a sum of Rs.20,000/- was awarded towards future loss of amenities. Totally, a sum of Rs.1,49,000/- was awarded. Challenging the said award, the present appeal has been filed by the claimant seeking enhancement.

5. According to the learned counsel appearing for the appellant, the tribunal has not properly appreciated the injuries sustained by the minor boy who lost his education for so many months. The tribunal has also not considered the pain and suffering and loss of income to the



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parents during the period of hospitalization. He further contended that the higher amount of Rs.3,00,000/- ought to have been awarded by the tribunal in view of the judgment of the Hon'ble Supreme Court reported in **2014 (14) SCC 396 (Mallikarjun Vs. Divisional Manager, The National Insurance Company Limited and others)**.

6. The learned counsel for the respondent had contended that the tribunal has properly calculated the compensation under various heads and therefore, it does not call for any interference for enhancing the same. He further contended that the tribunal has erroneously awarded 9% interest for the award amount and the same may be reduced.

7. Considering the fact that the Hon'ble Supreme Court in the judgment reported in **2014 (14) SCC 396 (Mallikarjun Vs. Divisional Manager, The National Insurance Company Limited and others)** in Paragraph No.12 has held that for the disability sustained by the minor on account of motor accident and if the disability is above 10% up to 30%, a higher amount of Rs.3,00,000/- could be awarded. In the present case, the disability as assessed by the doctor is 28%. Therefore, this Court is inclined to enhance the amount under the head of permanent partial disability from Rs.84,000/- to Rs.3,00,000/-. This Court is not



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inclined to interfere in the quantum of award under the other heads.

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8. In view of the above said facts, the total compensation is enhanced from Rs.1,49,000/- (Rupees One Lakh and Forty Nine Thousand) to Rs.3,65,000/- (Rupees Three Lakh and Sixty Five Thousand only). The tribunal has erroneously awarded 9% interest to the award amount. Therefore, this Court is inclined to reduce the rate of interest from 9% to 7.5%. The entire award amount including the enhanced amount will carry interest at the rate of 7.5% from the date of the filing of the claim petition. The respondent insurance company is directed to deposit the enhanced amount within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. With the above said observations, this Civil Miscellaneous Appeal stands allowed to the extent as stated above. No costs

12.04.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The Motor Accident Claims Tribunal
(Special Sub Court),
Tirunelveli.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
C.M.A(MD)No.996 of 2017

12.04.2023