



C.M.A.No.2888 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.2888 of 2022

Minor Rithish,
Rep by his Mother Priya

...Appellant

Vs

1.Balasubramaniam
2.The Divisional Manager,
The New India Assurance Company Limited,
No.106, First Floor, Big Street,
Thiruvannamalai.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award dated 01.08.2022 made in MACTOP.No.377 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai.

For Appellant : Ms.Sunithi Abirami M
for Ms.M.Malar



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JUDGMENT

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This civil miscellaneous appeal has been filed to enhance the compensation awarded vide the judgment and decree dated 01.08.2022 made in MACTOP.No.377 of 2018.

2. The learned counsel for the appellants would submit that on 29.04.2018, while the minor Rithish was standing on the left side of the road, a two-wheeler bearing Registration No.TN 25 AF 0239 came in a rash and negligent manner and dashed against him, due to which he had sustained grievous injuries. Considering all the aspects the Tribunal had awarded the following compensation:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Disability	1,00,000
2	Pain and Sufferings	35,000
3	Extra Nourishment	10,000
4	Attender Charges	10,000
5	Transportation Expenses	10,000
6	Loss of Amenities	25,000
	Total	1,90,000

3. By referring the above compensation awarded by the Tribunal, she



would submit that no amount has been awarded towards loss of education.

Further, she would also contend that the compensation awarded towards the other heads are also on the lower side. Hence, he requests this Court to enhance the same.

4. Heard the learned counsel for the appellant and also perused the materials available on record.

5. In the present case, the accident was occurred in the year 2018. At the time of accident, the claimant was aged about 6 years and for the said age group, considering the nature of the fracture of bone, the compensation awarded by the Tribunal towards disability appears to be very reasonable.

6. Further, the compensation awarded by the Tribunal under the other heads also appears to be just and fair. Hence, this Court is inclined to confirm the same.

7. As far as the request made by the learned counsel for the appellant with



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regard to the awarding of compensation towards the loss of education is concerned, it is pertinent to note that the claimant herein is a young boy, aged about 6 years and got admitted in a Private Hospital, which virtually becomes an opportunity for him to learn practical lessons by observing the services rendering by the Doctors and Nurses to the patients, by which he can acquire the helping tendency and the same would be good learning. Further, the lessons which he missed while he was admitted in the Hospital, can be learned by way of repetition. Therefore, virtually there is no loss of education by taking treatment in the Hospital. In such view of the matter, there is no merits in the submission made by the learned counsel for the appellant and accordingly, this Court is inclined to dismiss the present appeal.

8. In the result, this Civil Miscellaneous Appeal is dismissed and the 2nd respondent is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MACTOP.No.377 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai. Upon such deposit, the said amount shall be deposited in any one of the Nationalised Bank till the claimant attains his majority, since the

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claimant is minor and the mother of the claimant, who is his natural guardian, is permitted to withdraw the accrued interest once in three months for the welfare of the claimant. No costs.

05.02.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa

To:

The Motor Accident Claims Tribunal,
IV Small Causes Court, Chennai.



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KRISHNAN RAMASAMY,J.

nsa

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