



C.M.A.(MD)No.1128 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **04.09.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No.1128 of 2024
and C.M.P(MD)No.11796 of 2024

1.The Branch Manager,
National Insurance Company Limited,
No.333, TTP Road, Upstairs Metro Studio,
Thiruthuraipondi Post, Thanjavur District.

2.M.S.National Insurance Company Limited,
Rep. By its Manager,
No.33, Promenade Road,
Cantonment, Trichy District ... Appellants/2nd and 3rd Respondents

Vs.

1.Minor S.Albert
Represented by his natural Guardian
and next friend Sebesthiyar ...1st Respondent/Petitioner

2.S.Malathi ... 2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment dated 09.11.2023 passed in M.C.O.P.No.118 of 2020 on the file of the Motor Accident Claims Tribunal/Special Subordinate Judge of Trichirappalli.

For Appellants : Mr.V.Sakthivel

For R1 : Mr.N.Sudhagar Nagaraj



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JUDGMENT

By consent of the parties, this appeal is taken up for final disposal at the admission stage itself.

2. Since the 2nd respondent remained ex parte before the Tribunal, notice to the 2nd respondent is dispensed with.

3. The instant appeal has been filed in the name of the minor, who is represented by his father, challenging the quantum of compensation awarded by the Tribunal.

4. The manner of the accident, namely, that the insured vehicle had dashed against the minor claimant in a rash and negligent manner and caused injuries to him, is not disputed.

5. The learned counsel for the appellant submitted that though the minor claimant had not subjected himself to examination by the medical board, the Tribunal assessed the disability at 12%; that however granted an exorbitant compensation of Rs.3 lakh, which is not in accordance with



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the guideline issued by the Hon'ble Supreme Court of India and prayed for a reduction of compensation.

6. The learned counsel for the 1st respondent/minor claimant submitted that the compensation awarded by the Tribunal is just and reasonable as the minor claimant had taken treatment for nearly one year after the accident and therefore prayed for dismissal of the appeal.

7. The only point for consideration in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.

8. It was established before the Tribunal that the minor claimant had suffered fracture in the left leg below the knee and fracture in the lower jaw. Admittedly, he had taken treatment as a in-patient from 17.11.2019 to 17.12.2019. The Tribunal had assessed the disability at 12% based on the injuries since the minor claimant did not subject himself to examination by the medical board. However, considering the nature of injury and the age of the minor claimant, this Court is of the view that the disability can be assessed at 15%. However, there is no evidence to show that he had suffered any functional disability on



account of the injuries. Therefore, it would be reasonable to award compensation on a percentage basis. Since the accident took place in the year 2019, this Court is of the view Rs.7,000/- can be awarded for a percentage of the disability. The compensation under the head disability can be reduced to (Rs.7000 X 15) Rs.1,05,000/- instead Rs.3 lakhs awarded by the Tribunal.

9. The Tribunal had not awarded any compensation under the head pain and suffering. Considering the facts of the case, this Court is of the view that a sum of Rs.1 lakh can be awarded under the head pain and suffering.

10. The compensation awarded by the Tribunal under the head loss of income to the parents may not be in accordance with law. Therefore, this Court is of the view that the said sum cannot be awarded. The compensation awarded under the heads, transportation charges, extra nourishment, damages to clothes and other valuables and future medical expenses is confirmed. Further, the claimant is entitled to a sum of Rs. 20,000/- under the head attendant charges, which was not awarded by the Tribunal. Thus, the award of the Tribunal is modified as follows:



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Sl. N o.	<i>Heads of Compensation in</i>	<i>Amount awarded by Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>	<i>Amount confirmed, enhanced or reduced</i>
1.	Disability	3,00,000.00	1,05,000.00	Reduced
2.	Medical Bills	Nil	Nil	Confirmed
3.	Loss of income to the parents during the treatment period	15,000.00	Nil	Reduced
4.	Transportation Charges	5,000.00	5,000.00	Confirmed
5.	Extra Nourishment	10,000.00	10,000.00	Confirmed
5.	Damages to clothes and other valuables	2,000.00	2,000.00	Confirmed
6.	Future Medical Expenses	5,000.00	5,000.00	Confirmed
7.	Pain and suffering	Nil	1,00,000.00	Granted
8.	Attendant Charges	Nil	20,000.00	Granted
Total :		3,37,000.00	2,47,000.00	Reduced

11. In fine, this appeal is partly allowed. No costs. Consequently, the connected miscellaneous petition is closed.

12. The appellants shall deposit the award amount with accrued interest within a period of four weeks from the date of receipt of a copy of this order.



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13. Since the father of the minor claimant would have spent money for his treatment, he is permitted to withdraw 40% of the award amount with accrued interest. As regards the balance 60% of the amount awarded, the same shall be deposited in a nationalized bank and the guardian of the minor is permitted to withdraw interest once every three months directly from the bank till he attains majority.

04.09.2024

Index : Yes / No
Neutral Citation : Yes / No
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To
1. Motor Accident Claims Tribunal/
Special Subordinate Judge of Trichirappalli.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.



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SUNDER MOHAN, J.

CM

Judgment made in
C.M.A(MD)No.1128 of 2024
and CMP(MD)No.11796 of 2024

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