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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.03.2024**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.714 of 2023
and
C.M.P(MD)No.14837 of 2023

The United India Insurance Company Limited,
Divisional Office 280600,
13A, SBI Complex, Nethaji Road,
Manjakuppam, Cuddalore 607 001.
Divisional Office,
No. 4 Ist Floor,
Bharathidasan Road,
Trichy – 1. ... Appellant

Vs.

1. Bhuvaneshwar
2. R.Subramanian ... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the Judgment and Decree dated 22.09.2022 passed in MCOP No. 404 of 2020 on the file of the Motor Accidents Claims Tribunal (III Additional Sub court), Tiruchirappalli.

For Appellant : M/s.I.Robert Chandrakumar
For R-1 : Mr.K.Sivabalan
For R-2 : No appearance

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JUDGEMENT

This Civil Miscellaneous Appeal is filed by the Insurance Company to set aside the Judgment and Decree, dated 22.09.2022 passed in MCOP No. 404 of 2020 on the file of the Motor Accidents Claims Tribunal (III Additional Sub court), Tiruchirappalli.

2. It is a case of injury. At the time of accident, the claimant was aged about 16 years, a minor, was driving the vehicle without wearing helmet. Further the minor was coming from East to West and the offending vehicle was coming from West to East. When the minor was driving his two-wheeler from East to West, he ought to have keep left side, instead of keeping left, the minor has crossed the meridian and hence, the accident has occurred. In such circumstances, contributory negligence ought to be fixed on the minor claimant as well.

3. Further, it is seen from the records the vehicles had head on collision. In such circumstances, contributory negligence ought to be fixed on the offending vehicle also and the entire negligence cannot be fixed on

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the minor. Therefore, this Court is inclined to fix contributory negligence on the minor as 30% and therefore, the Appellant/Insurance Company is liable to pay 70% of the compensation amount.

4. The Learned Counsel appearing for the Claimant submitted that the Tribunal has not fixed any compensation under the head of future prospectus. Considering the age of the claimant, this Court is inclined to grant future prospectus for 10%.

5. Accordingly, the claimant is entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For permanent disability and loss of amenities and future prospectus [Rs.4,00,000 @ 10% = Rs.40,000]	Rs.4,00,000/-	Rs. 4,40,000/-	Enhanced
2.	For Pain and suffering	Rs.1,50,000/-	Rs. 1,50,000/-	confirmed
3.	For loss of Consortium to the parents	Rs. 23,000/-	Rs. 23,000/-	confirmed
4.	For Future Medical expenses	Rs. 25,000 /-	Rs. 25,000/-	confirmed
5.	Extra Nourishment Expenses	Rs. 15,000/-	Rs. 15,000/-	confirmed
6.	Attender Expenses	Rs. 10,000/-	Rs. 10,000/-	confirmed
7.	Transport Expenses	Rs. 10,000/-	Rs. 10,000/-	confirmed

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8.	Damages to clothing and articles	Rs. 5,000/-	Rs. 5,000/-	confirmed
9	Medical Bills	Rs. 4,68,444/-	Rs. 4,68,444/-	confirmed
	Total	**Rs. 11,06,444/-**	**Rs. 11,46,444/-**	

Since this Court is fixing contributory negligence on the claimant is 30%, the Appellant/Insurance Company is liable to pay 70% of the total compensation i.e., Rs.8,02,508/-with interest at 7.5% p.a., from the date of claim petition till the date of realization along with Costs.

6. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The Appellant/Insurance Company is directed to deposit to the tune of Rs.8,02,508/-with interest at 7.5% p.a., from the date of claim petition till the date of realization along with Costs within a period of Eight weeks from the date of receipt of a copy of this Judgment, less the amount if already deposited. On such deposit being made, the claimant is permitted to withdraw the same, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal.

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7. With these modifications, this Civil Miscellaneous Appeal is partly allowed. No Costs. Consequently, connected miscellaneous appeal is closed.

15.03.2024

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

KSA

To

1. The Motor Accidents Claims Tribunal/
(III Additional Sub court),
Tiruchirappalli.

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

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S.SRIMATHY, J.

KSA

Order made in
C.M.A(MD)No.714 of 2023

15.03.2024

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