



C.M.A.(MD).No.85 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.85 of 2018

and

C.M.P(MD) No.1264 of 2018

The Royal Sundaram Alliance
Insurance Company Limited,
Sorrento Building No.6,
1st Floor, Lattice Bridge Road,
Adyar,
Chennai – 600 020.
Represented by its Manager

... Appellant/2nd Respondent

-VS-

1.Minor Naveen @ Naveen Ambrish
S/o. Murugavelan,
No.16, Middle Street,
Sherumavilangai,
Nedungadu (Post)
Karaikal Taluk,
Pondicherry UT,
Represented by his Mother and
Guardian Sasikala.

... 1st Respondent/Claimant

2. V.Nelamani

... 2nd Respondent/1st Respondent



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, against the fair and decreetal order dated 23.04.2016 made in M.C.O.P.No.810 of 2013 on the file of the Motor Vehicle Accident Claims Tribunal, Special Sub Court, Thanjavur.

For Appellant : Mr.M.Jerin Mathew

For R-1 : Mr.N.Sudhagar Nagaraj

For R-2 : No appearance

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the appellant/ Insurance Company challenging the award passed in M.C.O.P.No. 810 of 2013, on the file of the Motor Vehicle Accident Claims Tribunal, Special Sub Court, Thanjavur, primarily, on the ground of quantum.

2. The injured claimant was aged about 12 years old. At the time of accident, he had suffered crush injury in the right foot and amputation of four fingers. There was a fracture in the right femur shaft. On the basis of the said grievous injuries, the claim petition has been filed seeking a compensation of Rs.50,00,000/- (Rupees Fifty Lakhs only).



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3. The Tribunal had awarded a sum of Rs.19,11,941/- (Rupees Nineteen Lakhs Eleven Thousand Nine Hundred and Forty One only). The appellant/ Insurance Company has admitted the liability to an extent of Rs.9,11,941/- (Rupees Nine Lakhs Eleven Thousand Nine Hundred and Forty One only) and they have filed the present appeal challenging the balance compensation awarded by the Tribunal.

4. According to the learned counsel appearing for the appellant, the Tribunal has awarded excess amount under the head of pain and suffering, loss of amenities and loss of marital prospects. He further contended that without any pleadings or evidence whatsoever, the Tribunal has proceeded to adopt multiplier method and has awarded an additional sum of Rs.6,48,000/- (Rupees Six Lakhs and Forty Eight Thousand only) under the head of loss of income. Hence, he prayed for setting aside the award passed under this head.

5. Per contra, the learned counsel appearing for the claimant pointed out that due to amputation of four fingers in the right leg the claimant he is not able to perform his regular daily activities and he has suffered loss of amenities and loss of marital prospects. He further contended that considering the amputation and multiple fractures suffered by the minor boy, the Tribunal



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was right in awarding a sum of Rs.2,00,000/- (Rupees Two Lakhs only) under each one of the heads of pain and suffering, loss of amenities and loss of marital prospects. He further contended that as per the Disability Certificate, the disability of the minor boy after the accident was assessed at 76%. The Tribunal has reduced the same to 60% and has proceeded to apply the multiplier method and fixing the notional monthly income at Rs.5,000/-. Therefore, the award of Rs.6,48,000/- (Rupees Six Lakhs and Forty Eight Thousand only) under the head of loss of income may not be disturbed.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. The Tribunal, has arrived at a finding as per Ex.P.17- Disability Certificate issued by the Medical Board of Government Medical College Hospital, Cadalur, that the claimant had suffered 60% permanent physical disability. Therefore, the Tribunal was right in fixing the disability at 60%. However, the Tribunal has awarded a sum of Rs.3,000/- (Rupees Three Thousand only) per percentage towards partial permanent disability, which is on the lessor side and therefore , this Court proceeds to enhance the same to a sum of Rs.4,000/- (Rupees Four Thousand only) per percentage of permanent



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disability and therefore, the amount awarded by the Tribunal under the head of partial permanent disability is enhanced from Rs.1,80,000/- (Rupees One Lakh Eighty Thousand only) to Rs.2,40,000/- (Rupees Two Lakhs Forty Thousand only) Considering the amputation of four fingers in the right leg, this Court is of the considered opinion that the Tribunal has rightly awarded a sum of Rs.2,00,000/- (Rupees Two Lakhs only) under each of the heads of pain and suffering, loss of amenities and loss of marital prospects. As far as the amount of compensation under the head of loss of income is concerned, except the physical disability certificate, there is no oral and documentary evidence on the side of the claimant to establish that the claimant had suffered functional disability to any extent. In such circumstances, the Tribunal was not right in adopting the multiplier method by fixing the notional income of injured claimant at Rs.5,000/- (Rupees Five Thousand only) per month. Therefore, the award of the Tribunal under the head of loss of income at Rs.6,48,000/- (Rupees Six Lakhs and Forty Eight Thousand only) stands set aside.



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8. In view of the above said discussions, the award of the Tribunal is reassessed as follows:

Partial permanent disability	: Rs.2,40,000/-
Medical Expenses	: Rs.4,13,341/-
pain and suffering	:Rs.2,00,000/-
Extra nourishment	: Rs. 50,000/-
Transport charges	: Rs. 10,000/-
Attendar Charges	: Rs. 10,000/-
Loss of amenities	: Rs.2,00,000/-
Loss of Martial Prospects	: <u>Rs.2,00,000/-</u>
Total	<u>:Rs.13,23,341/-</u>

9. The award of the Tribunal is reduced from Rs.19,11,941/- (Rupees Nineteen Lakhs Eleven Thousand Nine Hundred and Forty Only only) to Rs.13,23,341/- (Rupees Thirteen Lakhs Twenty Three Thousand Three Hundred and Forty One only). The award amount shall carry interest at the rate of 7.5% from the date of claim petition. Excess amount, if any deposited by the Insurance Company shall be refunded to them along with accrued interest and costs. In respect of the first respondent/minor claimant, the amount shall be deposited in a Nationalized Bank till he attains majority and



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the guardian of the minor claimant is permitted to withdraw the interest once in three months.

10. This Civil Miscellaneous Appeal is partly allowed to the extent as stated above. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

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

1. The Motor Vehicle Accident Claims Tribunal,
Special Sub Court, Thanjavur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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