



C.M.A(MD)No.274 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.274 of 2021

Minor. Rajarathinam
(represented by his Mother and
Next Guardian Parvathy)

... Appellant

Vs.

1. Saravanan

2. The United India Insurance Company Ltd.,
through its Branch Manager,
Number 37/2, Mattappa Street,
Neel Complex, II Floor,
Tenkasi - 627 811.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, to allow this appeal and enhance the award amount in M.C.O.P.No.114 of 2016 on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge) dealing with M.C.O.P cases, Tirunelveli, dated 25.07.2019.

For Appellant : Mr.T.Selvakumaran

For R-2 : Mr.N.Dilipkumar



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JUDGEMENT

The claimant has preferred this appeal and it is the case of injury.

2.At the time of an accident, the injured was minor child aged about only two years. The minor child has suffered multiple fracture. The Tribunal has taken disability as 18.8%, but has granted only Rs.4,000/- while calculating the disability. The contention of the petitioner is that the Court ought to have fixed the multiplier method, at least ought to have fixed Rs.5000/- as salary. This Court is not accepting the plea of the claimants. Even though the child had multiple fracture the disability is fixed as only 18.8% by the Medical Board, for which Rs. 4000/- is appropriate fixation.

3.However, for pain and suffering, the injured is entitled to more compensation since the child had multiple fracture. Therefore, this Court is increasing the same from Rs.15,000/- to Rs.65,000/-. Under the head of extra nourishment, this Court is increasing the same from Rs.15,000/- to Rs.65,000/-. For Attendant Charges this Court is increasing the same from Rs.2000/- to Rs. 7,000/- . The Tribunal has failed to grant compensation amount for Loss of



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Amenities, hence this Court is granting Rs.25,000/- (Rupees Twenty Five Thousand only) towards the loss of amenities.

4.The modified compensation awarded by this Court is as under:

Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Disability Rs.4000 * 18.8	Rs.75,200 (confirmed)	Rs.75,200/-
2.	Medical Bills	Rs.1,83,815/- (confirmed)	Rs.1,83,815/-
3.	Pain and Sufferings	Rs.65,000/- (enhanced)	Rs.15,000/-
4.	Transport to Hospital	Rs.5,000/- (confirmed)	Rs.5,000/-
5.	Extra Nourishment	Rs.65,000/- (enhanced)	Rs.15,000/-
6.	Attendance Charges	Rs.7,000/- (enhanced)	Rs.2000/-
7.	Loss of amenities	Rs.25,000/-	Nil
Enhanced Total compensation granted by this Court		Rs.4,26,015/- (enhanced)	Total compensation awarded by Tribunal = Rs.2,96,015/-

5.The 2nd respondent Insurance Company is directed to deposit Rs. 4,26,015/- with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any,



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within a period of eight weeks from the date of receipt of a copy of this judgment.

The Tribunal is directed to deposit the share of the minor child in a nationalized bank until the child attains majority. The mother/guardian, is permitted to withdraw the interest amount once in three months. Once the minor claimant attains majority, the compensation amount shall be withdrawn by him.

6. With the above said modification, this Civil Miscellaneous Appeal is partly allowed.

22.03.2024

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

To

1. The United India Insurance Company Ltd.,
through its Branch Manager,
Number 37/2, Mattappa Street,
Neel Complex, II Floor,
Tenkasi - 627 811.

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



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S.SRIMATHY, J.

jbr

Order made in
C.M.A(MD)No.274 of 2021

22.03.2024