

(1996) 11 MAD CK 0093

In the Madras High Court

Case No : Civil Revision Petition No. 1405 of 1996 and C.M.P. No. 7687 of 1996

B. Thenmozhi

APPELLANT

Vs

P.M. Balasubramanian and Another

RESPONDENT

Date of Decision : 15-11-1996

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (1996) 2 ACC 669

Hon'ble Judges : P. Sathasivam, J

Bench : Single Bench

Advocate : M. Swamikkannu, for the Appellant; P. Sukumaran, for the Respondent

Judgement

P. Sathasivam, J.—The motor accident victim who had sustained injuries in the accident, said to have taken place on 23.8.1991 against the dismissal of her application to enhance the claim from Rs. 1,00,000/- to Rs. 5,00,000/-. has filed the present revision under Article 227 of the Constitution of India before this Court. It is seen that on 23.8.1991 at about 9:30 a.m. the petitioner claimant (9 years old at the time of accident) who sustained the injuries, initially filed a claim within three days of the accident claiming a sum of Rs. 1,00,000/- as compensation. By the present application, M.P. No. 430 of 1994, after realising that her earlier claim is very low and in view of the subsequent developments, namely, medical expenses for skin grafting, etc., she has requested the court below to permit her to enhance her claim to Rs. 5,00,000/-.

2. The said application was resisted by the insurance company/respondent No. 2 in the said O.P. contending that the claimant has not adduced any additional information than that she had already mentioned in the original claim petition and prayed for rejection of the said petition. Accepting the objection raised by the insurance company, the Tribunal by the impugned order dismissed M.P. No. 430 of 1994. I have heard the learned Counsel for the petitioner as well as the counsel for the insurance company.

3. After perusing the order of the court below and after hearing the arguments of learned Counsel on either side, I am unable to sustain the order of the court below. No doubt, it is true that the claimant (who is a minor represented by her guardian) has not adduced sufficient reasons to seek for an enhancement to Rs. 5,00,000/-. However, she has explained that the initial claim was made within three days without ascertaining or quantifying the actual loss suffered by her. In such circumstances, there is nothing wrong in claiming higher compensation, more particularly after treatment and after ascertaining the actual expenses spent or the actual damage to the body in pursuance of the injuries sustained in the accident. It is needless to mention that mere asking a higher compensation does not mean that the claimant is entitled to the entire amount as claimed by her. During the trial, a duty is cast on the claimant to prove how she is entitled to claim the amount and only on proper proof, it is open to the Tribunal to award any reasonable amount. When such is the position, I do not understand the objection raised by the insurance company. Since the Motor Vehicles Act and the Rules made by the legislature are intended to help the victims, I am not convinced with the reason given by the court below in rejecting the petition filed by the victim for enhancement. Under these circumstances, I have no hesitation in setting aside the order of the court below, accordingly, the impugned order is set aside and the civil revision petition is allowed. The petitioner is permitted to enhance the claim as prayed for in her petition.

4. The court below is directed to dispose of the claim petition after giving opportunity to all the parties concerned and dispose of the same within a period of three months from the date of receipt of the records and a copy of this order from this Court. However, there will be no order as to costs.

5. In view of the disposal of the main C.R.P., no further or separate orders are necessary in the connected C.M.P. and the same is closed.