

(2006) 04 MAD CK 0024

In the Madras High Court

Case No : C.M.A. No. 183 of 1999

R. Kumaresan rep. by his father and next friend Ramamoorthy	APPELLANT
Vs	
A. Srivasaraghavan and United India Insurance Co. Ltd.	RESPONDENT

Date of Decision : 10-04-2006

Acts Referred:

Citation : (2006) 04 MAD CK 0024

Hon'ble Judges : K. Suguna, J

Bench : Single Bench

Advocate : J. Mahalingam, for the Appellant; C. Ramesh Babu, for 2nd Respondent, for the Respondent

Judgement

K. Suguna, J.—The claimant in M.C.O.P. No : 3146 of 1995 has preferred this Civil Miscellaneous Appeal challenging the quantum

awarded by the Motor Accident Claims Tribunal (V Judge, Court of Small Causes), Chennai, by its judgment dated 16.04.1998 in the above

M.C.O.P.

2. The facts leading to the filing of this appeal are : On 17.03.1995, at 3.00 p.m. when the minor R. Kumaresan was crossing the road at the

junction of North Mada Street and Sengeni Pillayar Koil Street at Chennai, due to the rash and negligent driving of the scooter, bearing

Registration No: TN 07 2576, belonging to first respondent, the scooter hit against the minor. Consequent to the accident, Kumaresan sustained

grievous injuries and hence he filed a claim petition claiming a sum of Rs.1,00,000/- as compensation. But, the Tribunal has passed an award to the

tune of Rs.21,000/-. Aggrieved against the amount granted by the Tribunal, the claimant is before this Court in this Civil Miscellaneous Appeal.

3. Learned counsel for the appellant has contended that as per the disability certificate, the permanent disability of the claimant is assessed at 15%

for which the Tribunal has awarded only a sum of Rs.15,000/- as against the claim of Rs.64,000/-. Besides, the Tribunal has not awarded any

amount under the heading loss of earning power. He would therefore submit that the quantum awarded by the Tribunal should be interfered with

and the same should be enhanced.

4. The learned Counsel for the respondent on the other hand would contend that since the injured is only a minor, the question of awarding any

amount under the heading loss of earning capacity does not arise; besides contending that for the disability of 15% the award of Rs.15,000/- is

reasonable. He would also add that since the injured is a minor the amount awarded under the other conventional heads are also reasonable.

5. I have heard the learned Counsel on either side. As per the finding of the Tribunal, because of the said accident the claimant/ minor had suffered

a fracture in both the knees in addition to an injury in the ankle. The age of the claimant was only 7 years at the time of the accident. In my

considered opinion, the injuries sustained by him will have an impact on the physical condition of the injured. Certainly that would affect his earning

power as well. That apart, since the injured was studying in first standard at the time of the accident, because of the injuries sustained by him in the

accident, even in his life as a student he cannot enjoy which the other students of this age group can. His options with regard to his higher education

viz. his professional choices will also be restricted. Therefore, certainly the injured is eligible to get some amount under the head loss of earning

power. In my opinion, awarding a sum of Rs.20,000/- to the injured under the head loss of earning power would be reasonable.

6. The injured had suffered a fracture in both the knees and also in the ankle. Hence, the Tribunal ought to have awarded compensation under the

head pain and suffering. In my opinion, awarding a sum of Rs.5,000/- under the head pain and suffering, is reasonable under the circumstances of

the case. As per the order of the Tribunal, the total amount awarded is Rs.21,000/-. But in fact actually Tribunal has awarded compensation only

to the tune of Rs.16,000/- (Rs.15,000/- for the disability; Rs.500/- towards transport expenses and Rs.500/- for extra nourishment). The amount

of Rs.500/- awarded for nutritious food is also low since the appellant was under treatment for quite some time. Hence, I enhance the same to

Rs.1,000/-.

7. In the result, the appellant/claimant is eligible for an enhanced amount of Rs.25,500/- in addition to what was awarded by the Tribunal. Totally

the claimant is entitled for a compensation of Rs.41,500/- that can be rounded off as Rs.42,000/-. As regards the rate of interest, the Tribunal has

awarded 12% interest for the compensation awarded by it. But as per the Supreme Court judgment, the claimant is entitled to 9% interest from the

date of the claim petition till 31.12.2000 and at the rate of 7.5% from 01.01.2001 till the date of payment. For the enhanced amount, the claimant

is entitled to interest at the rate of 7.5% from the date of the claim petition till the date of payment. With the above, this Civil Miscellaneous Appeal

stands ordered accordingly.