

SUPREME COURT OF INDIA

John Rep.By Guardian Mary

Vs.

Manag.Partner, Pynadath Fin.Corp.

C.A.No.5878 of 2010

(Dalveer Bhandari and Deepak Verma JJ.)

19.07.2010

ORDER

1. Leave granted.

2. The appellant, who was aged about 11 years at the relevant time, met with an accident while walking on a public road. He suffered severe head injuries and as a result thereof he became mentally retarded and was even unable to attend to his routine day-to-day mundane activities. Unfortunately he also lost his father during the pendency of the matter.

3. The vehicle involved in the accident was a scooter owned by the first respondent herein.

4. The appellant filed a claim petition before the Motor Accident Claims Tribunal at Irinjalakuda, Kerala, (hereinafter referred to as 'the Tribunal'). The Tribunal vide its judgment dated 15.12.1999 awarded a compensation of only Rs.1,20,100/-.

5. Aggrieved by the quantum of the award, the appellant filed an appeal before the High Court of Kerala. The High Court remanded the matter to the Tribunal for passing fresh award after giving an opportunity to the parties to adduce further evidence and after considering the entire evidence.

6. The Tribunal after considering the entire evidence adduced by the parties, found that the accident took place due to rash and negligent driving on the part of the rider of the scooter. The Tribunal further held that the rider of the scooter, owner of the scooter and the insurance company with whom the scooter was insured, are liable to pay compensation. The Tribunal vide its judgment dated 22.03.2006, awarded a total compensation of Rs.2,06,892/- with interest at the rate of 6% per annum.

7. The appellant was permitted by the Kerala High Court to withdraw a sum of Rs.1,20,100/- as awarded by the Tribunal vide its judgment dated 15.12.1999. The Tribunal, therefore,

directed the 2nd respondent to pay the balance amount of Rs.86,792/- to the appellant with interest at the rate of 6% per annum.

8. The appellant still being aggrieved by the quantum of compensation, filed an appeal before the High Court of Kerala. The High Court of Kerala, by its judgment dated 12th November, 2008, partly allowed the appeal and enhanced the compensation by Rs.1 lakh. The High Court further directed that this additional amount of compensation shall carry interest at the rate of 7.5% per annum.

9. We have heard the learned counsel on both sides.

10. On consideration of the totality of the facts and circumstances of this case, we deem it appropriate to direct that respondent No.2 shall pay an amount of Rs.1,25,000/- to the appellant within four weeks from today, in full and final settlement of his claim. This amount shall be over and above all other amounts which have been directed to be paid by the respondents.

11. This appeal is disposed of accordingly. No costs.