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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 02.11.2017**

**CORAM :**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**C.M.A.(MD)No.394 of 2015**

**and**

**M.P.(MD).No.1 of 2015**

**and**

**CROS.OBJ(MD).No.34 of 2016**

The Branch Manager,  
United India Insurance Company Limited,  
Xavier Building, II Floor,  
PWD Road, Nagercoil,  
Kanyakumari District.

... Appellant in C.M.A.No.394  
of 2015 and 1<sup>st</sup> respondent  
in Cros.Obj.No.34 of 2016

**Vs.**

1.Minor Ashitha

(Represented by her father and

natural guardian Sundar Raj) ...1<sup>st</sup> Respondent in C.M.A.No.

394 of 2015 and Cross

Objector in Cros.Obj.No.34 of 2016

2.Edwin Sundar

3.Viji

...2<sup>nd</sup> and 3rd Respondents in

C.MA.No.394 of 2015

and Cros.Obj.No.34 of 2016

**Prayer in C.M.A.(MD).No.394 of 2015:** This Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgement and decree dated 30.01.2014 made in M.C.O.P.No.94 of 2011 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Kuzhithurai.

**Prayer in Cross Obj.(MD).No.34 of 2016:** This appeal filed under Order 41 Rule 22 C.P.C. against the order and decree of the Motor Accident Claim Tribunal (Subordinate Judge), Kuzhithurai, dated 30.01.2014 made in M.C.O.P.No.94 of 2011 and memo of grounds not served till date, whereas the cross objectors is desirous of preferring the above cross objection against the order and decree dated 30.01.2014 of the Motor Accident Claims Tribunal (Subordinate Judge), Kuzhithurai, in M.C.O.P.No.94 of 2011.

For Appellant in

C.M.A.No.394 of 2015

and 1<sup>st</sup> Respondent in

Cros.Obj.No.34 of 2016

: Mr.A.Ilango



For 1<sup>st</sup> Respondent in  
C.M.A.No.394 of 2015  
and Cross Objector in  
Cros.Obj.No.34 of 2016

: Mr.C.Sankar Prakash

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For R2 & R3 in C.M.A.No.394 of 2015  
and R2 and R2 in Cros.Obj.No.  
34 of 2016

: Mr.C.K.M.Appaji

### JUDGMENT

Heard the learned counsel on either side.

2.The Insurance Company has filed this appeal questioning the impugned award on the ground of quantum. The claimant has also filed Cross Objection seeking enhancement. It is a case of a 10 years old girl child falling down when getting into the bus injuring her foot. However instead of awarding compensation based on the disability suffered by her, the Tribunal chose to adopt multiplier method and awarded a sum of Rs.5,09,200/- with interest. Therefore I agreed with the contention of the learned counsel for the appellant. The compensation awarded by the Tribunal will have to be reworked as under:-

| Sl.No | Heads                     | Amounts in Rs.       |
|-------|---------------------------|----------------------|
| 1.    | Disability 31 * 3000      | Rs. 93,000/-         |
| 2.    | Medical Bills             | Rs.1,35,000/-        |
| 3.    | Future Medical expenses   | Rs.1,00,000/-        |
| 4.    | Pain and Sufferings       | Rs.1,00,000/-        |
| 5.    | Nourishment               | Rs. 10,000/-         |
| 6.    | Transport                 | Rs. 5,000/-          |
| 7.    | Damages to Clothes        | Rs. 2,000/-          |
| 8.    | Loss of marital prospects | Rs. 5,000/-          |
|       | Total                     | <b>Rs.4,50,000/-</b> |

3.The compensation awarded by the Tribunal is therefore reduced from Rs.5,09,200/- to Rs.4,50,000/- with 7.5% interest per annum. The award made in M.C.O.P.No.94 of 2011 dated 30.01.2014 on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Kuzhithurai is accordingly modified.

4.The appellant is directed to deposit the entire compensation amount of Rs.4,50,000/- with interest at the rate of 7.5% per annum, from the date of petition till the date of realization, within a period of eight weeks from the date of



receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants are entitled to withdraw the same, as apportioned by the Tribunal, less the amount already withdrawn by him, if any, by filing proper application before the Tribunal.

5.This Civil Miscellaneous Appeal is partly allowed. Cross Objection is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

- 1.The Subordinate Judge,  
Motor Accidents Claims Tribunal,  
Kuzhithurai.
2. The Record Keeper,  
Vernacular Secton,  
Madurai Bench of Madras High Court,  
Madurai.

TSG

VB/SKN/RSK/SAR4/12/12/2017/3P/3C

**C.M.A. (MD) No.394 of 2015  
and  
M.P. (MD) .No.1 of 2015  
and  
CROS.OBJ (MD) .No.34 of 2016  
02.11.2017**