

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.Nos.373 & 374 of 2015 and
Cros.Obj.No.66 of 2015
M.P.Nos.1,1,2 of 2015

The New India Assurance Company Ltd.
No.453, Anna salai
SIET building
Teynampet, Chennai-600 018.

and No.45, Moor street
Chennai-600 001.

.. Appellant in both CMAs./
Respondent

Vs.

1.R.Manoj Kumar

.. 1st Respondent/Petitioner

2.Silver N.Spring Nursery & Primary School
No.29, School view road
1st lane, R.K.nagar, Chennai-28.

3.Vikramasingh (minor)
Represented by father Mr.Jayasingh

4.Meenazhni

.. Respondents in
C.M.A.No.373 of 2015/
Respondents

1.J.Vikramasingh

... 1st Respondent/Petitioner

2.Silver N.Spring Nursery & Primary School
No.29, School view road
1st lane, R.K.nagar, Chennai-28.

..2nd Respondents in
C.M.A.No.374 of 2015/
1st Respondent

Prayer: These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 25.09.2014 made in M.C.O.P.Nos.1400 of 2009 & 728 of 2012 on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai.

In C.M.A.No.373 of 2015

For Appellant : Mr.R.Neethi Perumal
For R1 : Mr.N.Manokaran
For R2 : Mr.A.Shanmugaraj
For R3 : Mr.K.Suryanarayanan
R4 : No such person

In C.M.A.No.374 of 2015

For Appellant : Mr.R.Neethi Perumal
For R1 : Mr.K.Suryanarayanan
For R2 : Mr.A.Shanmugaraj

Cros.Obj.No.66 of 2015

J.Vikram Singh ... Cross objector

vs.

1. The New India Assurance Company Ltd.,
No.45, Moore street, Chennai-1.
2. Silver N.Spring Nursery & Primary School
No.29, School view road
1st lane, R.K.nagar, Chennai-28.

.. Respondents

Prayer: Cross Appeal is filed under Order XXXXI Rule 22 of C.P.C., against the judgment and decree dated 25.09.2014 made in M.C.O.P.No.728 of 2012 on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai.

For Cross Objector : Mr.K.Suryanarayanan
For R1 : Mr.R.Neethi Perumal
For R2 : Mr.A.Shanmugaraj

C O M M O N J U D G M E N T

C.M.A.Nos.373 and 374 of 2015 are filed by the Insurance Company against the award dated 25.09.2014 made in M.C.O.P.Nos.1400 of 2009 & 728 of 2012 on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai.

Cross Appeal is filed by the claimant for enhancement of compensation granted by the award dated 25.09.2014 made in M.C.O.P.No.728 of 2012 on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai.

2.All the two Civil Miscellaneous Appeals and the Cross Appeal are arising out of the same accident and common award and hence, they are disposed of by this common judgment.

3.Parties in these appeals are referred to by their respective ranks in the claim petitions for the sake of convenience.

4.The appellant, first respondents and second respondent in C.M.A.Nos.373 and 374 of 2015 are second respondent/Insurance Company, claimants and first respondent in M.C.O.P.Nos.1400 of 2009 & 728 of 2012 on the file of the Motor Accidents Claims Tribunal, IV Small Causes Court, Chennai. The fourth respondent in C.M.A.No.373 of 2015 is the subsequent owner of the two wheeler. The claimants filed the said claim petitions claiming a sum of Rs.15,00,000/- and Rs.10,00,000/- respectively, as compensation for the injuries sustained by them in the accident that took place on 20.03.2009.

5.According to the claimants, while they were travelling as pillion riders in Honda Activa bearing Registration No.TN-06-1290, driver of the van belonging to the first respondent drove the vehicle in a rash and negligent manner and dashed against the two wheeler, in which, the claimants travelled and caused the accident. Both the claimants sustained injuries and were admitted in Malar Hospital, Adyar, Chennai and took treatment as in-patients and underwent surgeries. Subsequently, due to swelling and infection, both the claimants were again admitted in the hospital and plates fixed were removed. The accident occurred only due to the rash and negligent driving by the driver of the van and the first respondent as owner of the van and second respondent as insurer are liable to pay the compensation to the claimants.

6.The first respondent/owner of the van filed counter statement and denied that the accident occurred due to the rash and negligent driving by the driver of the van. The first respondent contended that the rider of the two wheeler suddenly turned right side of the road and lost control and invited the accident. The owner and insurer of the two wheeler are necessary parties and in any event, the van is insured with the second respondent and if any compensation is awarded, only the second respondent/Insurance Company is liable to pay the compensation.

7.The second respondent/Insurance Company filed counter

statement and denied the averments made in the claim petition and contended that the claimant in M.C.O.P.No.728 of 2012 viz., J.Vikramasingh, who was aged 16 years, was rider of the two wheeler with the claimant in M.C.O.P.No.1400 of 2009 as a pillion rider. The rider of the two wheeler was not having driving license at the time of the accident. He suddenly turned towards Southern side to enter into Ranimeyyamai towers and hit the van belonging to the first respondent, who was proceeding southern side of the road. The accident occurred only due to the negligent driving by the rider of the two wheeler. In any event, the contributory negligence has to be fixed on the part of the rider of the two wheeler. The rider of the two wheeler, who is the claimant in M.C.O.P.No.728 of 2012, was aged 16 years at the time of accident and he does not know driving and was not having driving license. Owner and insurer of the two wheeler are necessary parties to the claim petitions. The amount of compensation claimed by the claimants are excessive.

8.The claimant in M.C.O.P.No.728 of 2012, who is third respondent in M.C.O.P.No.1400 of 2009, filed counter statement and denied that he was the rider of the two wheeler and the accident occurred due to the negligence on the part of the rider of the two wheeler.

9.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to the rash and negligent driving by the driver of the van belonging to the first respondent and directed the second respondent/Insurance Company, who is insurer of the said van, to pay the compensation and awarded a sum of Rs.8,98,600/- in M.C.O.P.No.1400 of 2009 and a sum of Rs.9,17,300/- in M.C.O.P.No.728 of 2012 as compensation to the claimants.

10.Against the said common award dated 25.09.2014 made in M.C.O.P.Nos.1400 of 2009 & 728 of 2012, the second respondent/Insurance Company has come out with the two C.M.A.Nos.373 and 374 of 2015 challenging the liability as well as quantum of compensation and the claimant in M.C.O.P.No.728 of 2012 has filed Cros.Obj.No.66 of 2015 in C.M.A.No.374 of 2015 seeking enhancement of compensation.

11.The learned counsel appearing for the second respondent/Insurance Company contended that minor drove the two wheeler involved in the accident, who did not have driving license and the tort-feasor is not entitled to claim compensation. The Tribunal failed to see that the accident occurred only due to the rash and negligent driving by the rider of the two wheeler. The compensation awarded by the Tribunal under different heads are excessive and prayed for setting aside the award of the Tribunal.

12.The learned counsel appearing for both the claimants separately contended that the claimants are pillion riders at the time of the accident. The accident occurred only due to the rash and negligent driving by the driver of the van belonging to the first respondent. F.I.R. was registered only against the driver of the van and charge sheet also filed against him. The driver pleaded guilty and paid fine. The Tribunal considering the evidence let in by the parties, held that the driver of the van is negligent and second respondent as a insurer of the said van is liable to pay the compensation.

13.The learned counsel appearing for the claimant in M.C.O.P.No.728 of 2012 has filed Cros.Obj.No.66 of 2015 in C.M.A.No.374 of 2015 and contended that the amounts awarded by the Tribunal in various heads are meagre. Due to the injuries, he lost one year of studies. The Tribunal ought to have adopted multiplier method while awarding compensation for the injuries suffered by the claimant. The Tribunal without any basis erroneously awarded compensation at Rs.2,000/- per percentage and prayed for enhancement of compensation.

13(i). The learned counsel for the claimant in M.C.O.P.No.1400 of 2009 (C.M.A.No.373 of 2015) in support of his contentions, relied on the following judgments:

(i) 2007 (2) TN MAC 399 (DB) (Oriental Insurance Company Limited vs. K.Balasubramanian and others);

"10. From Ex.A.4, it is quite clear that there was no mechanical defect in either of the vehicles involved in the accident and that the accident was purely due to the human error. Ex.A-5, the judgment of the Judicial Magistrate No.II, Nagercoil in S.T.C.No.3554 of 2001 evidences that the fifth respondent herein/first respondent in M.C.O.P. admitted the offence and pleaded guilty and based on his admission he was convicted for the offences under Sections 279, 337 and 338 IPC. It is a well settled proposition of law that the judgments of the criminal Courts are neither binding on the civil Court/Motor Accident Claims Tribunal nor relevant in a civil case or a claim for compensation under the Motor Vehicles Act, except for the limited purpose of showing that there was a criminal prosecution which ended in conviction or acquittal. But there is an exception to the general rule. When an accused pleads guilty and is convicted based on his admission, the judgment of the criminal Court becomes admissible and relevant in civil proceedings and proceedings

before the Motor Accident Claims Tribunal, not because it is a judgment of the Criminal Court, but as a document containing an admission. Of course, admissions are not conclusive proof of the facts admitted therein. But unless and until they are proved to be incorrect or false by the person against whom the admissions are sought to be used as evidence, the same shall be the best piece of evidence. In this case, though the appellant did have the right to lead evidence to disprove the facts admitted in the criminal case, no evidence has been adduced on the side of the appellant in the proceedings before the Motor Accident Claims Tribunal. In addition to the above said admissions, there are other reliable evidence both oral and documentary adduced on the side of the claimants to prove negligence on the part of the driver of the lorry. In view of the overwhelming evidence adduced on the side of the claimants, apart from the unrebutted admission made by the driver of the offending vehicle in the criminal case, the finding of the Tribunal that the accident occurred solely due to the rash and negligent driving of the above said lorry bearing registration No.TN-32-Y-2669 belonging to the sixth respondent herein and insured with the appellant herein does not suffer from any infirmity or discrepancy. Hence, this Court comes to the conclusion that there is no reason, whatsoever, to interfere with the above said finding of the Tribunal regarding the negligence aspect and the same deserves to be confirmed."

(ii) (2010) 7 MLJ 284 (Branch Manager, New India Assurance Company Limited, Perambalur vs. Balagurumoorthy and another);

13. ... Above all, admittedly, after investigation, a charge sheet was laid against one Sivakumar, driver of the vehicle bearing Registration No.TN-46-9451 alleging commission of offences punishable under Sections 279, 337 and 338 I.P.C. The same was taken on file as S.T.C.No.336 of 2004 on the file of the learned Judicial Magistrate, Perambalur and the said Sivakumar pleaded guilty and was convicted and imposed a fine of Rs.1,600/-. Of course, Judgment of the criminal Court shall not be binding on the civil Court or the Motor Accidents Claims Tribunal. However, if the Judgment is based on the plea of guilty, the admission contained in the

plea of guilty is admissible as a piece of evidence. Thus, the claimant besides deposing as P.W.1 has also produced Ex.P.5 certified copy of the Judgment in the criminal case to show that there was an admission by the driver of the offending vehicle. Under such circumstances, the appellant/insurer, who pleads collusion between the claimant and the owner of the vehicle, should have examined either the owner or the driver of the vehicle. The insurer cannot be heard to say that the owner having colluded with the claimant will be inclined to give evidence in favour of the claimant only. When the insurer wants to plead collusion and false impleadment of the vehicle for the purpose of claiming compensation from the insurer, the insurer should have summoned the owner or the driver of the vehicle so that they could have been cross examined by the insurer with the permission of the Tribunal. The appellant/insurer has not chosen to do so."

(iii) 1975 AIR (Madras) 65 (Govind singh and others vs. A.S.Kailasam and another);

"8. ... Thus, it may be seen that the earliest version of R.W. 1 is at variance with his evidence in Court and that version is to the effect that the car hit the pedestrian. More significant is the fact that, when R.W.1 was prosecuted for an offence under Section 337, I.P.C., he has voluntarily pleaded guilty to the charge framed against him. After having admitted before the Criminal Court that the accident took place due to his rash and negligent driving of the car, there is hardly any force in the present contention of R.W. 1 that he did not drive the car rashly or negligently and that he was not to be blamed for the accident. It is no doubt seen that R.W. 1 has attempted to reconcile the conflicting positions by projecting a story that his plea of guilt before the Criminal Court was not one of truth, but was one of the convenience, viz., to avoid making frequent visits to the Court to defend the case. This explanation is hardly convincing and, at any rate, cannot be allowed to be successfully projected by R.W.1. An admission against his interest made by R.W.1 either before the Tribunal or elsewhere, has got to be taken into account in rendering a decision on the relative stands taken by the parties in the

controversy. In the face of his own admission in connected proceedings arising out of the same incident, it is futile for R.W. 1 to contend that the accident was not due to his negligence. This important aspect of the case has been totally lost sight of by the Tribunal. In view of this conclusion, it is unnecessary to make any probe into the veracity of the testimony of P.W. 3 and R.W. 3. Moreover, even according to R.W. 1 no one else present on the road witnessed the accident, and this admission also waters down the contention of P.W. 3 and R.W. 3 that they were witnesses to the accident."

13(ii). The learned counsel for the claimant in M.C.O.P.No.728 of 2012 (C.M.A.No.374 of 2015) in support of his contentions, relied on the following judgments:

(i) (2002) 7 SCC 456 (National Insurance Company Limited, Chandigarh vs. Nicolletta Rohtagi and others);

"25. We have earlier noticed that motor vehicle accident claim is a tortious claim directed against tortfeasors who are the insured and the driver of the vehicle and the insurer comes to the scene as a result of statutory liability created under the Motor Vehicles Act. The legislature has ensured by enacting Section 149 of the Act that the victims of motor vehicle are fully compensated and protected. It is for that reason the insurer cannot escape from its liability to pay compensation on any exclusionary clause in the insurance policy except those specified in Section 149(2) of the Act or where the condition precedent specified in Section 170 is satisfied."

(ii) 2012 ACJ 982 (Haryana Glue Works Vs. Kapoor Singh and Others);

"4. Accident has occurred on a highway and the vehicle, according to the owner, had been recently repaired and the vehicle had been seriously damaged only by the negligent conduct of the driver of the truck. Driver of the truck himself was examined, but the Tribunal reasoned that the evidence given on behalf of yet another claimant whose appeal is a subject in F.A.O.No.400 of 1988 was a minor and he ought to have been driving the vehicle himself. The Tribunal was literally adopting a reasoning which was nobody's case. Even if Mange Ram was to be taken as a driver, even

then there is no presumption of liability that a minor is responsible for the accident and negligence must always be attributed to him. There could be no presumption that a minor or a person who did not have a valid driving licence could be presumed to be a tortfeasor."

(iii) 2013 (2) TN MAC 334 (ICICI Lombard General Insurance Co. Limited, Salem vs. Muniammal and others);

"9. In support of his contentions, the learned counsel for the Respondents/ claimants placed reliance on the decision of the Honourable Supreme Court reported in Vidhyadhar Vs. Manikrao (AIR-1999-SC-1441) where a party to the suit does not appear into the witness box and state his own case on oath and does not offer himself to be cross-examined by the other side, a presumption would arise that the case set up by him is not correct. Applying the dictum laid down by the Honourable Supreme Court in the decision cited supra to the case on hand, the learned counsel would contend that in the absence of any contra evidence to the evidence of the claimants, a presumption can be drawn that the deceased was working as a driver under the first opposite party and he developed illness, while he was on duty on account of the stress and strain undergone by him during the course of the employment."

14. The learned counsel appearing for the claimant in M.C.O.P.No.728 of 2012 (C.M.A.No.374 of 2015) argued on the ground of maintainability. In support of his contentions, he relied on the following judgments:

(i) 2009 (1) TN MAC 166 (National Insurance Company Limited, Gobi vs. K.Ampujam and others);

"21. On the other hand, it is quite clear that their lordships of the Supreme Court were of the view that in case of plea of fraud, the Insurer could approach the Tribunal, which passed the award for rectification of the mistake by recalling such an award obtained fraudulently. When an award is attacked contending that the award was obtained by fraud, the plea of fraud should be established by adducing proper and sufficient evidence. The person who raises the plea of fraud shall have the burden of proving it. Such an exercise cannot be undertaken conveniently in an Appeal. That is why their lordships of the Hon'ble Supreme Court, in the above said case,

were of the view that in the absence of an Appeal preferred by the insured and in the absence of permission obtained under Section 170 of the Motor Vehicles Act, the Insurer could not prefer an Appeal and that in case the Insurer would plead "fraud" as a ground of attack, the Court which passed the award, namely the Motor Accidents Claims Tribunal Could be approached for rectifying the defect by recalling the award if the fraud alleged would be proved. Therefore, the contention of the learned counsel for the appellant that an Insurer can maintain an Appeal on the ground that the award had been obtained by the claimants by fraud cannot be countenanced. "

The learned counsel for the second respondent/Insurance Company contended that as they are party to the claim petition, they can raise all the grounds of defence and permission under Section 170 of the Motor Vehicles Act is not necessary and relied on the following judgment of the Hon'ble Apex Court reported in 2011 (2) TN MAC 481 SC (United India Insurance Company Limited vs. Shila Datt and others);

"7. The scheme of the Motor Vehicles Act, 1988 as contained in Chapters XI (Insurance of Motor Vehicles against Third Party risks) and XII (Claim Tribunals) proceeds on the basis that an insurer need not be impleaded as a party to the claim proceedings and it should only be issued a statutory notice under section 149(2) of the Act so that it can be made liable to pay the compensation awarded by the tribunal and also resist the claim on any one of the grounds mentioned in clauses (a) and (b) of sub-section (2) of section 149. Sub-sections (1), (2) and (7) of section 149 clearly refer to the insurer being merely a noticee and not a party. Similarly, sections 158(6), 166(4), 168(1) and 170 clearly provide for and contemplate insurer being merely a notice for the purposes mentioned in the Act and not being a party-respondent. Section 170 specifically refers to impleading of insurer as a party to the claim proceedings.

.....

.. ..

11. Therefore, where the insurer is a party-respondent, either on account of being impleaded as a party by the Tribunal under section 170 or being impleaded as a party-respondent by the claimants in the claim petition voluntarily, it will be entitled to contest the matter by raising

all grounds, without being restricted to the grounds available under section 149(2) of the Act. The claim petition is maintainable against the owner and driver without impleading the insurer as a party. When a statutory notice is issued under section 149(2) by the Tribunal, it is clear that such notice is issued not to implead the insurer as a party-respondent but merely to put it on notice that a claim has been made in regard to a policy issued by it and that it will have to bear the liability as and when an award is made in regard to such claim. Therefore, it cannot, as of right, require that it should be impleaded as a party-respondent. But it can however be made a party-respondent either by the claimants voluntarily in the claim petition or by the direction of the Tribunal under Section 170 of the Act. Whatever be the reason or ground for the insurer being impleaded as a party, once it is a party-respondent, it can raise all contentions that are available to resist the claim.

Re : Point (ii) : Maintainability of a joint appeal by the owner of the vehicle (Insured) and Insurer."

15.The learned counsel appearing for the first respondent/owner of the van contended that the Tribunal has erroneously held that the accident occurred only due to the rash and negligent driving by the driver of the van. On the other hand, the accident occurred only due to the rash and negligent driving by the rider of the two wheeler, who is the claimant in M.C.O.P.No.728 of 2012. The van was insured with the second respondent and as insurer, the second respondent is only liable to pay the compensation.

16.Heard the learned counsel appearing for the claimants as well as the respondents 1 and 2 and perused the materials available on record.

17.From the materials available on record, it is seen that the Tribunal considering Ex.P1 F.I.R., Ex.P2 charge sheet and evidence of P.W.6/Sub-Inspector of Police, who deposed that the driver of the van pleaded guilty and paid fine, held that the driver of the van is responsible for the accident. It is pertinent to note that the respondents have not let in any evidence. Both the claimants stated in their claim petitions and deposed in their evidence that both the claimants were pillion riders at the time of the accident. They have not stated who was the rider of the two wheeler, in which, they travelled. Even though the respondents 1 and 2 contended that the claimant in M.C.O.P.No.728 of 2012 (C.M.A.No.374 of 2015) is the rider of

the two wheeler, they were unable to prove the said contention.

18.The contention of the learned counsel for the claimant in M.C.O.P.No.728 of 2012 (C.M.A.No.374 of 2015) that the Tribunal ought to have applied multiplier method while awarding compensation towards disability, is without merit. The reason given by the learned counsel for the claimant in M.C.O.P.No.728 of 2012 (C.M.A.No.374 of 2015) for applying multiplier method is not valid. The Tribunal has considered the nature of the injuries and awarded compensation on percentage method. Similarly, the contention of the learned counsel that the amount awarded by the Tribunal is meagre and has to be enhanced is also without merit.

19.The contention of the learned counsel appearing for the claimant in M.C.O.P.No.728 of 2012 (C.M.A.No.374 of 2015) regarding maintainability is concerned, as per the judgment reported in 2011 (2) TN MAC 481 SC (United India Insurance Company Limited vs. Shila Datt and others), a three Judges Bench of the Hon'ble Apex Court held that when the insurer is a party to the claim petition, they can raise all grounds of defence available to them and there is no necessity to get permission under Section 170 of the Motor Vehicles Act. In view of the ratio in the said judgment, the appeal filed by the Insurance Company is maintainable as they are aggrieved person.

20.The contention of the learned counsel appearing for the second respondent/Insurance Company that the Tribunal has awarded excessive amounts under different heads, has considerable force. The Tribunal awarded excessive amounts under different heads except under the heads of disability and marital prospects. In the appeals filed by the second respondent/Insurance Company, this Court reduces the quantum of compensation awarded by the Tribunal. In view of the excess amount awarded by the Tribunal, which are reduced by this judgment, the Cross-Objection is without merits and is hereby dismissed.

M.C.O.P.No.1400 of 2009 (C.M.A.No.373 of 2015):
A sum of Rs.50,000/-, Rs.75,000/-, Rs.1,00,000/-, Rs.3,000/-, Rs.50,000/-, Rs.50,000/- and Rs.1,50,000/- awarded by the Tribunal towards transportation, extra nourishment, pain and suffering, damages to clothes, attendant charges, future medical expenses and loss of earning power and amenities are hereby reduced to Rs.10,000, Rs.25,000/-, Rs.50,000/-, Rs.1,000/-, Rs.25,000/-, Rs.25,000/- and Rs.1,00,000/- respectively. Further, the Tribunal awarded a sum of Rs.80,000/- and Rs.50,000/- towards disability and loss of marital prospects and the same are just and reasonable and they are hereby confirmed.

As per the medical bills under Ex.P6, the Tribunal awarded a

sum of Rs.2,90,525/-. R.W.2/employee of the Malar hospital deposed that the hospital has issued the medical bills only to the tune of Rs.2,04,224/-. Inspite of the same, the Tribunal has awarded a sum of Rs.2,90,525/- as claimed by the claimant and the same is reduced to Rs.2,04,224/-. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	80,000	80,000	confirmed
2.	Transportation	50,000	10,000	reduced
3.	Extra nourishment	75,000	25,000	reduced
4.	Pain and Suffering	1,00,000	50,000	reduced
5.	Damages to clothes	3,000	1,000	reduced
6.	Medical Bills	2,90,525	2,04,224	reduced
7.	Attendant charges	50,000	25,000	reduced
8.	Future medical expenses	50,000	25,000	reduced
9.	Loss of earning power and amenities	1,50,000	1,00,000	reduced
10.	Loss of marital prospects	50,000	50,000	confirmed
	Total	8,98,525 (rounded off to Rs.8,98,600/-)	5,70,224	Reduced by Rs.3,28,376/-

M.C.O.P.No.728 of 2012 (C.M.A.No.374 of 2015):

A sum of Rs.50,000/-, Rs.75,000/-, Rs.1,00,000/-, Rs.3,000/-, Rs.50,000/-, Rs.50,000/- and Rs.1,50,000/- awarded by the Tribunal towards transportation, extra nourishment, pain and suffering, damages to clothes, attendant charges, future medical expenses and loss of earning power and amenities are hereby reduced to Rs.10,000, Rs.25,000/-, Rs.50,000/-, Rs.1,000/-, Rs.25,000/-, Rs.25,000/- and Rs.1,00,000/- respectively. Further, the Tribunal awarded a sum of Rs.1,00,000/- and

Rs.50,000/- towards disability and loss of marital prospects and the same are just and reasonable and they are hereby confirmed.

As per the medical bills under Ex.P12, the Tribunal awarded a sum of Rs.2,89,245/- and the same is hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Disability	1,00,000	1,00,000	confirmed
2.	Transportation	50,000	10,000	reduced
3.	Extra nourishment	75,000	25,000	reduced
4.	Pain and Suffering	1,00,000	50,000	reduced
5.	Damages to clothes	3,000	1,000	reduced
6.	Medical Bills	2,89,245	2,89,245	confirmed
7.	Attendant charges	50,000	25,000	reduced
8.	Future medical expenses	50,000	25,000	reduced
9.	Loss of earning power and amenities	1,50,000	1,00,000	reduced
10.	Loss of marital prospects	50,000	50,000	confirmed
	Total	9,17,245 (rounded off to Rs.9,17,300/-)	6,75,245	Reduced by Rs.2,42,055/-

21. With the above modification, both the Civil Miscellaneous Appeals are partly allowed and Cross-Objection No.66 of 2015 is dismissed. In M.C.O.P.No.1400 of 2009, the compensation of Rs.8,98,600/- awarded by the Tribunal is hereby reduced to Rs.5,70,224/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. In

M.C.O.P.No.728 of 2012, the compensation of Rs.9,17,300/- awarded by the Tribunal is hereby reduced to Rs.6,75,245/- with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The second respondent/Insurance Company is directed to deposit the modified award amount, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their respective award amount with accrued interest, after adjusting the amount if any, already withdrawn. The second respondent/Insurance Company is permitted to withdraw the excess amount, if any lying in the deposit to the credit of M.C.O.P.Nos.1400 of 2009 and 728 of 2012, if the entire award amount has already been deposited by them. Cros.Obj.No.66 of 2015 filed by the claimant in M.C.O.P.No.728 of 2012 is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kj

To

1.The Motor Accidents Claims Tribunal
IV Small Causes Court, Chennai.

Copy To

The Record Keeper

V.R.Section, High Court, Chennai.

+1cc to Mr.N.Manokaran, Advocate, S.R.No.1250

+2cc to Mr.R.Neethi Perumal, Advocate, S.R.No.887, 888

+1cc to Mr.K.Suryanarayanan, Advocate, S.R.No.885

+2cc to Mr.A.Shanmugarajr, Advocate, S.R.No.865, 866

C.M.A.Nos.373 & 374 of 2015 and
Cros.Obj.No.66 of 2015
M.P.Nos.1,1,2 of 2015

PPA (CO)

CS/10/07/2019