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C.M.A. Nos.1719 of 2020 & 324 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

CORAM:

THE HONOURABLE **MS.JUSTICE V.M.VELUMANI**  
and  
THE HONOURABLE **MR.JUSTICE SUNDER MOHAN**

C.M.A.Nos.1719 of 2020 & 324 of 2021  
and C.M.P.No.2224 of 2021

**C.M.A.No.1719 of 2020**

Minor Anni Joy Beatrice

Rep. by her father, natural guardian & next friend,  
Ingarsal Rajanayagam

.. Appellants

Vs.

1.Benny Anburaj

2.National Insurance Co. Ltd.,

Rep. by its Manager,

No.13, Mudhaliyar Street, Mailaduthurai.

3.S.Muthu

4.The Managing Director, TNSTC – Kumbakonam Ltd.,

Railway Station New Road, Kumbakonam,

Branch Office – Pulliyan Kottai Salai,

Karaikal.

.. Respondents



C.M.A. Nos.1719 of 2020 & 324 of 2021

**Prayer:** This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 18.05.2020, made in M.C.O.P. No.188 of 2019, on the file of the District Court, (Motor Accident Claims Tribunal) Karaikal.

For Appellants : Mr.K.Varadhakamaraj

For RR1 & 2 : No appearance

For R4 : Mr.D.Raghu

**C.M.A.No.324 of 2021**

The Managing Director,  
TNSTC – Kumbakonam Ltd.,  
Railway Station New Road, Kumbakonam,  
Branch Office – Pulliyan Kottai Salai,  
Karaikal.

.. Appellant

Vs.

1.Godfrey Danielraj

2.Minor Eunice Anburani  
(rep. by her elder brother as natural guardian  
& next friend, Godfrey Danielraj)

3.Benny Anburaj

4.National Insurance Co. Ltd.,  
Rep. By its Manager,  
No.13, Mudhaliyar Street,  
Mailaduthurai



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5.S.Muthu

.. Respondents

**Prayer:** This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 18.05.2020, made in M.C.O.P. No.229 of 2018, on the file of the District Court, (Motor Accident Claims Tribunal) Karaikal.

For Appellant : Mr.D.Raghu

For RR1 & 2 : Mr.K.Varadhakamaraj

For RR3 to 5 : No appearance

### **COMMON JUDGMENT**

[Judgment of the Court was delivered by V.M.VELUMANI,J.]

C.M.A.No.1719 of 2020 has been filed by the appellant-claimant seeking enhancement of compensation granted by the Tribunal in the award dated 18.05.2020, made in M.C.O.P. No.188 of 2019, on the file of the District Court, (Motor Accident Claims Tribunal) Karaikal.

C.M.A.No.324 of 2021 has been filed by the appellant-Transport Corporation against the judgment and decree dated 18.05.2020, made in



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M.C.O.P. No.229 of 2018, on the file of the District Court, (Motor Accident Claims Tribunal) Karaikal.

2.Both the appeals arise out of same accident and common award and hence, disposed of by this common judgment.

3.The parties are referred to as per their ranks in their respective claim petitions, for the sake of convenience.

4.The claimant in C.M.A.No.1719 of 2020 filed M.C.O.P. No.188 of 2019 on the file of the District Court, (Motor Accident Claims Tribunal) Karaikal, claiming a sum of Rs.25,00,000/- as compensation for the injuries sustained by her in the accident that took place on 18.08.2018. The claimants in C.M.A.No.324 of 2021 filed M.C.O.P. No.229 of 2018, on the file of the District Court, (Motor Accident Claims Tribunal) Karaikal, claiming a sum of Rs.1,10,00,000/- as compensation for the death of one Arul Jothi Bagyarani who died in the same accident.



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5. According to the claimant/claimants in both the claim petitions, on the date of accident, when the claimant in M.C.O.P.No.188 of 2019 was travelling along with the deceased Aruljothi Bagyarani, her daughter minor Eunice Anburani/2<sup>nd</sup> claimant in M.C.O.P.No.229 of 2018, one minor Jerome, minor Aneejo Patrics and minor Judith in a Tata Indica Car bearing Registration No.TN-51-K-3291, driven by the 1<sup>st</sup> respondent in both the claim petitions from South to North direction on the western side of Karaikal-Nagore Main road, while nearing in front of Neravy ONGC Office Main Gate, due to sudden crossing of a cyclist, the 1<sup>st</sup> respondent/driver of the Car turned his Car towards right side i.e., eastern side to avoid hitting the cyclist. At that time, the 3<sup>rd</sup> respondent/driver of the TNSTC Bus bearing Registration No.TN-68-N-0510 which was coming on the same road from opposite direction, dashed on the Car and caused the accident. In the accident, the said Aruljothi Bagyarani died on the way to Hospital and minor Anni Joy Beatrice/claimant in M.C.O.P.No.188 of 2019 and other occupants of the Car including the 1<sup>st</sup> respondent sustained grievous injuries. The accident occurred



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due to rash and negligent driving of both the vehicle drivers and hence, the claimant in M.C.O.P.No.188 of 2019 filed the said claim petition claiming compensation for the injuries sustained by her and claimants in M.C.O.P.No.229 of 2018 filed the said claim petition claiming compensation for the death of one Aruljothi Bagyarani who died in the accident, against the respondents 1 and 2, who are the owner-cum-driver and insurer of the said Tata Indica Car and respondents 3 and 4 who are the driver and owner of the TNSTC Bus respectively.

6.The 1<sup>st</sup> respondent who appeared in person did not file any counter.

7.The 2<sup>nd</sup> respondent, insurer of the Tata Indica Car filed counter statement and denied all the averments made by the claimant/claimants in both the claim petitions. According to the 2<sup>nd</sup> respondent, the accident occurred when the 1<sup>st</sup> respondent who drove the Tata Indica Car from Aranthangi to Karaikal, while nearing ONGC Office Main Gate at Nagore Main Road from South to North, admittedly went to the eastern side of the



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road where number of vehicles will be coming from North to South towards Nagapattinam in hectic speed and hit against the passenger Bus driven by the 3<sup>rd</sup> respondent. The same is evident from the FIR and the claim petition. There was no cyclist crossed the Car at the time of accident. The Traffic Police, T.R. Pattinama, Karaikal, on seeing the place of occurrence, found that the accident was caused by the 1<sup>st</sup> respondent against the moving Bus. Hence, for the negligence of the 1<sup>st</sup> respondent and limited liability of insurance coverage of the Tata Indica Car, the 2<sup>nd</sup> respondent is not entitled to indemnify the 1<sup>st</sup> respondent. As per the policy taken by the 1<sup>st</sup> respondent, Section 11-1(ii) of the Motor Vehicle Act and Rules will be applicable to this case when the Car was hit against any hard object and not definitely against the moving passenger Bus. The claimants in M.C.O.P.No.229 of 2018 have to prove the age, avocation and income of their deceased mother to claim compensation. Similarly, the claim of Rs.25,00,000/- in M.C.O.P.No.188 of 2019 for the injuries sustained by the minor claimant is highly exaggerated. The claimant has to prove the disability suffered. As the medical expenses were sufficiently paid by the Star Health to the claimant in M.C.O.P.No.188 of 2019, further



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claim made by the claimant is not sustainable. In any event, the total compensation claimed in both the claim petitions are excessive and prayed for dismissal of both the claim petitions.

8.The 3<sup>rd</sup> respondent/driver of the TNSTC Bus filed counter statement and denied all the averments made by the claimant/claimants in both the claim petitions. According to the 3<sup>rd</sup> respondent, on the date of accident, when he was driving the Bus to Kumbakonam via Natchiar Kovil, slowly at Neravy Salai, opposite to ONGC main gate, a cyclist suddenly crossed the road and hence, the 3<sup>rd</sup> respondent stopped the Bus. But the 1<sup>st</sup> respondent/driver of the Tata Indica Car who was driving the same in a rash and negligent manner from opposite direction in an uncontrollable speed, to avoid hitting the cyclist, hit on the left side bottom of the Bus grill and mudguard and caused the accident. Due to the carelessness of the 1<sup>st</sup> respondent, who himself drove the Car in an uncontrollable speed and hit the Bus, the accident has occurred. There was no rash and negligent driving by the 3<sup>rd</sup> respondent/driver of the Bus. The Nagapattinam road is a broad road and the 1<sup>st</sup> respondent who could



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not see the cyclist, invited the alleged accident himself. Therefore, the 3<sup>rd</sup> respondent is not liable to indemnify the 1<sup>st</sup> respondent and pay compensation to the claimant/claimants in both the claim petitions. The claimants in M.C.O.P.No.229 of 2018 failed to file the birth certificate of the deceased Aruljothi Bagyarani to prove her age. In the pay certificate, the salary of the said deceased is clearly stated, but in the service certificate, the salary of the deceased is different. Therefore, there is controversy in the salary of the deceased. The amounts claimed in both the claim petitions are excessive and prayed for dismissal of both the claim petitions.

9.The 4<sup>th</sup> respondent-TNSTC filed counter affidavit and denied all the averments made by the claimant/claimants in both the claim petitions. The 4<sup>th</sup> respondent reiterated the averments in the counter affidavit filed by the 3<sup>rd</sup> respondent as regards the manner of accident and contradiction in the salary certificate of the deceased Aruljothi Bagyarani. The 4<sup>th</sup> respondent further stated that due to the negligent driving of Tata Indica Car by the 1<sup>st</sup> respondent, the occupants of the Car sustained injuries and deceased Aruljothi



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Bagyarani died on the way to Hospital due to the head injury. The injured minor claimant in M.C.O.P.No.188 of 2019 though sustained grievous injuries, voluntarily discharged herself from the Government Hospital and admitted in the Meenakshi Hospital, Thanjavur. The Government Hospital, Karaikal is well equipped with very good accommodation, rich food and high quality treatment is given on free of cost. She has not produced the accident register and details of treatment taken at the different hospitals with proper medical bills. The minor claimant was cured within short period and after due recovery, she became alright. She failed to prove her temporary/permanent disability and disfigurement if any, by medical evidence. In any event, the total compensation claimed in both the claim petitions are excessive and prayed for dismissal of both the claim petitions.

10.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by both the 1<sup>st</sup> respondent, driver-cum-owner of the Tata Indica Car and 3<sup>rd</sup> respondent, driver of the TNSTC Bus, fixed 50:50 negligence on both of



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them, awarded a sum of Rs.5,09,683/- and Rs.89,42,108/- as compensation in both the claim petitions respectively and directed the respondents 2 and 4 to pay the compensation equally to the claimant/claimants.

11. Not being satisfied with the amounts awarded by the Tribunal in M.C.O.P.No.188 of 2019, the claimant has filed C.M.A.No.1719 of 2020, seeking enhancement of compensation.

12. Against the award of the Tribunal dated 18.05.2020, made in M.C.O.P. No.229 of 2018, the 4<sup>th</sup> respondent-TNSTC has come out with C.M.A.No.324 of 2021.

13. The learned counsel appearing for the claimant in C.M.A.No.1719 of 2020 submitted that in the accident, the minor claimant sustained grievous injuries, lost one lower limb and sustained permanent disablement. The Tribunal considering the same, out to have awarded compensation towards loss of income by fixing the notional monthly income and granting future



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prospects. Considering the year of accident and permanent disability suffered by the claimant, the Tribunal ought to have awarded more compensation towards disability instead of awarding only Rs.1,86,000/-. The amounts awarded by the Tribunal towards attendant charges, transportation, extra nourishment, pain and sufferings, future medical expenses and future marital prospects are meagre. The total compensation awarded by the Tribunal is meagre and prayed for enhancement of the same.

14.In C.M.A.No.324 of 2021, though the 4<sup>th</sup> respondent-Transport Corporation raised various grounds with regard to negligence fixed as well as the quantum of compensation awarded by the Tribunal in M.C.O.P.No.229 of 2018, at the time of arguments, the learned counsel appearing for the 4<sup>th</sup> respondent restricted his arguments only with regard to negligence. The learned counsel appearing for the 4<sup>th</sup> respondent-TNSTC contended that on the date of accident, the deceased Aruljothi Bagyarani was traveling as an occupant in the Car driven by the 1<sup>st</sup> respondent. When the Bus owned by the 4<sup>th</sup> respondent was driven by the 3<sup>rd</sup> respondent near Neravy Salai Opposite to



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ONGC main gate in a slow manner, the driver of the Bus stopped the Bus since a Cyclist suddenly crossed the road. At that time, the 1<sup>st</sup> respondent/driver of the Car who was driving the Car in a rash and negligent manner, came from opposite direction in an uncontrollable speed, hit the Bus and caused the accident. In the accident, the deceased Aruljothi Bagyarani who was the occupant of the Car sustained fatal injuries. The Tribunal failed to note that the accident occurred only due to the negligent driving by the 1<sup>st</sup> respondent/driver of the Car. FIR is lodged against the 1<sup>st</sup> respondent/driver of the Car. The Tribunal erroneously fixed 50% liability on the part of the 4<sup>th</sup> respondent-TNSTC, despite there is no negligence on the part of the 3<sup>rd</sup> respondent/driver of the TNSTC Bus. Further, as regards the quantum of compensation granted by the Tribunal in M.C.O.P.No.188 of 2019, the claimant has not made out any case for enhancement of the compensation and hence, prayed for dismissal of C.M.A.No.1719 of 2020, filed by the claimant seeking enhancement.



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15.Though notice has been served on the respondents 1 and 2 in C.M.A.No.1719 of 2020 and respondents 3 to 5 in C.M.A.No.324 of 2021 and their names are printed in the cause list, there is no representation for them either in person or through counsel.

16.Heard the learned counsel appearing for the claimant/claimants in both the appeals as well as the 4<sup>th</sup> respondent-TNSTC and perused the materials available on record.

17.It is the case of the claimants/claimant in both the appeals that on the date of accident the deceased Aruljothi Bagyarani, her daughter who is the 2<sup>nd</sup> claimant in M.C.O.P.No.229 of 2018 and injured claimant in M.C.O.P.No.188 of 2019 were traveling in a Car along with relative children from Aranthangi to Porayur. The said Car was driven by the 1<sup>st</sup> respondent, who is the husband of the deceased Aruljothi Bagyarani from South to North direction on the western side of the Karaikal – Nagore main road. While nearing Neravy ONGC Office main gate, due to sudden crossing of a cyclist,



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the 1<sup>st</sup> respondent turned his Car towards right side i.e., Eastern side to avoid hitting the cyclist. At that time, the TNSTC Bus which was driven by the 3<sup>rd</sup> respondent on the same road from opposite direction, dashed on the Car and caused the accident. The accident occurred due to the negligence of both the vehicle drivers. In support of their contention, they examined the 1<sup>st</sup> claimant in M.C.O.P.No.229 of 2018 as P.W.1, who deposed to that effect. On the other hand, it is the case of the 4<sup>th</sup> respondent-TNSTC and 3<sup>rd</sup> respondent-driver of the TNSTC Bus that the accident occurred when the 3<sup>rd</sup> respondent was driving the Bus to Kumbakonam via Natchiar Kovil, slowly at Neravy Salai, opposite to ONGC main gate, a cyclist suddenly crossed the road and hence, the 3<sup>rd</sup> respondent stopped the Bus. But the 1<sup>st</sup> respondent/driver of the Car who was driving the same in a rash and negligent manner from opposite direction in an uncontrollable speed, to avoid hitting the cyclist, hit on the left side bottom of the Bus grill and mudguard and caused the accident. Due to the carelessness of the 1<sup>st</sup> respondent, who himself drove the Car in an uncontrollable speed and hit the Bus, the accident has occurred. The Nagapattinam road is a broad road and the 1<sup>st</sup> respondent who could not see



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the cyclist, invited the alleged accident himself.

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18.From the materials on record, it is seen that Ex.P1 – FIR was lodged by one Adisayam Arumairaj/first informant, one of the occupant of the Car and brother of the deceased Aruljothi Bagyarani. On perusal of Ex.P1 – FIR which was registered against the 1<sup>st</sup> respondent/driver of the Car, it is seen that after attending relative marriage, the first informant was returning in three Cars from Aranthangi to Karaikal. The Cars were proceeding one by one to Karaikal and around 9.50 hours, when they reached Neravy ONGC first road, the 1<sup>st</sup> respondent drove the Car in a rash and negligent manner and dashed against the TNSTC Bus which was coming in opposite direction. The Tribunal considered the version of the first informant in FIR and the fact that the claimants/claimant in both the claim petitions did not deny the said contention, but only claimed that a cyclist intervened in the road and therefore, in order to avoid hitting the cyclist, the 1<sup>st</sup> respondent turned to his right side which ultimately hit against the Bus. The Tribunal also took note of Ex.R2- rough sketch filed by the respondents which shows that the Car has



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gone to the extreme right side and dashed against the Bus and caused the accident and held that had there not been any intervention, the Car would not have gone to the extreme right suddenly and also, had the 3<sup>rd</sup> respondent/driver of the Bus driven the vehicle carefully, he could have averted the accident by applying sudden brake. On perusal of Ex.R2 – rough sketch, it is seen that no tyre marks are found to prove that sudden brake was applied. The Tribunal having considered all these facts, erroneously held that both the vehicles contributed to the accident and fixed 50% negligence on both of them. From the evidence of P.W.1, Ex.P1 – FIR and Ex.R2 – rough sketch, it is seen that the accident occurred mostly due to the negligence on the 1<sup>st</sup> respondent/driver of the Car. Hence, it will be just and proper to fix 70% negligence on the part of the 1<sup>st</sup> respondent/driver of the Car and 30% negligence on the part of the 3<sup>rd</sup> respondent/driver of the TNSTC Bus. Consequently, the respondents 2 and 4 who are the insurer of the Car and owner of the Bus respectively are directed to pay 70% and 30% of the compensation to the claimant/claimants in both the appeals.



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19.As far as the quantum of compensation granted by the Tribunal in M.C.O.P.No.188 of 2019 (C.M.A.No.1719 of 2020) is concerned, at the time of accident, the injured claimant was a student studying IX Standard at Sharmila Goddess S.M. Matric Hr. Secondary School, Porayur, Tranqubar Taluk. In the accident, she suffered head injury diffused axial injury fracture at right ulnar, fracture at right forearm mandle, both bone fracture and has taken treatment as in-patient at Meenakshi Hospital, Thanjavur. The Medical Board at Government General Hospital, Karaikal assessed and certified that the claimant suffered 62% disability. The Tribunal did not grant any compensation for loss of earning power on the ground that the appellant was a Student and non-earning member. The Tribunal has granted a sum of Rs.1,86,000/- for 62% permanent disability suffered by the claimant at the rate of Rs.3,000/- per percentage and awarded a total sum of Rs.5,09,683/- as compensation. The amounts awarded by the Tribunal for granting compensation to the injured minor is not in consonance with the judgment of the Hon'ble Apex Court reported in **2013 (2) TN MAC 338 (SC)**, [**Master Mallikarjun Vs. Divisional Manager, National Insurance Co. Ltd., & another**], wherein it



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has been held by the Hon'ble Apex Court that for the injury sustained by the minor injured claimant who is a non-earning member, consolidated compensation must be awarded. The Hon'ble Apex Court also indicated the amounts to be awarded based on the percentage of disability sustained by the injured claimant. For 60-90% disability, the amounts to be awarded is Rs.5,00,000/-. Paragraphs 12 and 13 of the said judgment is extracted as follows:

*"12. Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc., should be, if the disability is above 10% and upto 30% to the whole body, Rs.3 lakhs; upto 60%, Rs.4 lakhs; upto 90%, Rs.5 lakhs and above 90%, it should be Rs.6 lakhs. For permanent disability upto 10%, it should be Re.1 lakh, unless there are exceptional circumstances to take different yardstick.*

*13. In the instant case, the disability is to*



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*the tune of 18%. Appellant had a longer period of hospitalization for about two months causing also inconvenience and loss of earning to the parents. The appellant, hence, would be entitled to get the compensation as follows: -*

| HEAD                                                                                                                                                                                                                   | COMPENSATION<br>AMOUNT |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| <i>Pain and suffering already undergone and to be suffered in future, mental and physical shock, hardship, inconvenience, and discomforts, etc., and loss of amenities in life on account of permanent disability.</i> | <i>Rs.3,00,000/-</i>   |
| <i>Discomfort, inconvenience and loss of earnings to the parents during the period of hospitalization.</i>                                                                                                             | <i>Rs.25,000/-</i>     |
| <i>Medical and incidental expenses during the period of hospitalization for 58 days.</i>                                                                                                                               | <i>Rs.25,000/-</i>     |
| <i>Future medical expenses for correction of the mal union of fracture and incidental expenses for such treatment.</i>                                                                                                 | <i>Rs.25,000/-</i>     |
| <i>TOTAL</i>                                                                                                                                                                                                           | <i>Rs.3,75,000/-</i>   |

20.In the present case, the claimant suffered 62% permanent disability.

Applying the said ratio of the Hon'ble Apex Court, the claimant is entitled to a



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sum of Rs.5,00,000/- towards disability, including pain and suffering and loss of amenities, as the claimant suffered 62% disability. Hence, the sum of Rs.50,000/- separately granted by the Tribunal towards pain and suffering is set aside. The claimant has marked Exs.P24 to P27 – medical bills to prove the medical expenses incurred by her. The Tribunal, on perusal of the same, found that the Star Health Insurance Company has reimbursed a sum of Rs.1,66,225/- towards the medical bills issued by the Meenakshi Hospital and granted a sum of Rs.98,933/- towards medical expenses. The same is just and proper and hence, confirmed. The claimant has taken in-patient treatment at Hospital from 19.08.2018 to 27.08.2018 and on 20.08.2018, she underwent ORIF cude plating at right ulnar fracture. The Tribunal has awarded a sum of Rs.1,350/- towards attendant charges at the rate of Rs.150/- per day for 9 days in-patient treatment undergone by the minor claimant. The accident is of the year 2018. Considering the period of treatment taken and the judgment of the Hon'ble Apex Court reported in **2013 (2) TN MAC 338 (SC)** (referred to above), the amounts awarded by the Tribunal towards attendant charges and future medical expenses are meagre. Hence, the amount awarded by the



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Tribunal towards attendant charges is modified and a sum of Rs.25,000/- is granted towards discomfort, inconvenience and loss of earnings to the parents during the period of hospitalization and the amount awarded towards future medical expenses is enhanced to Rs.25,000/-. Considering the age of the claimant and date of accident, the amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are 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.    | Permanent disability, pain and sufferings and loss of amenities                                    | 1,86,000/-                      | 5,00,000/-                        | Enhanced                               |
| 2.    | Medical expenses                                                                                   | 98,933/-                        | 98,933/-                          | Confirmed                              |
| 3.    | Pain and suffering                                                                                 | 50,000/-                        | -                                 | Set aside                              |
| 4.    | Transportation                                                                                     | 23,400/-                        | 23,400/-                          | Confirmed                              |
| 5.    | Discomfort, inconvenience and loss of earnings to the parents during the period of hospitalization | 1,350/-                         | 25,000/-                          | Enhanced                               |
| 6.    | Extra nourishment                                                                                  | 10,000/-                        | 10,000/-                          | Confirmed                              |
| 7.    | Future medical expenses                                                                            | 15,000/-                        | 25,000/-                          | Enhanced                               |



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|     |                           |                   |                   |                                  |
|-----|---------------------------|-------------------|-------------------|----------------------------------|
| 8.  | Loss of marital prospects | 50,000/-          | 50,000/-          | Confirmed                        |
| 9.  | Loss of convenience       | 25,000/-          | 25,000/-          | Confirmed                        |
| 10. | Loss of advantage         | 50,000/-          | 50,000/-          | Confirmed                        |
|     | <b>Total</b>              | <b>5,09,683/-</b> | <b>8,07,333/-</b> | <b>Enhanced by Rs.2,97,650/-</b> |

21.In the result,

(i).C.M.A.No.324 of 2021 is partly allowed and the amount awarded by the Tribunal at Rs.89,42,108/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit is confirmed. The 2<sup>nd</sup> respondent-Insurance Company is directed to deposit a sum of Rs.62,59,476/- being 70% of the award amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.229 of 2018 and the 4<sup>th</sup> respondent-TNSTC is directed to deposit a sum of Rs.26,82,632/-, being 30% of the award amount, now determined by this Court, along with interest and costs, within a period of twelve weeks from the date of receipt of a copy of this judgment, to the credit of the said M.C.O.P. No.229 of 2018. On such deposit, the 1<sup>st</sup> claimant is permitted to withdraw his share of the award



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amount, along with proportionate interest and costs, as per the ratio of apportionment fixed by the Tribunal, after adjusting the amount, if any, already withdrawn, by filing necessary applications before the Tribunal. The share of the minor 2<sup>nd</sup> claimant is directed to be deposited in any one of the Nationalized Bank, till the minor attains majority. The 1<sup>st</sup> claimant, elder brother of the minor 2<sup>nd</sup> claimant is permitted to withdraw the accrued interest, once in three months for the welfare of the minor 2<sup>nd</sup> claimant. Consequently, connected Miscellaneous Petition is closed. No costs.

(ii).C.M.A.No.1719 of 2020 is partly allowed. The amounts awarded by the Tribunal at Rs.5,09,683/- is enhanced to Rs.8,07,333/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2<sup>nd</sup> respondent-Insurance Company is directed to deposit a sum of Rs.5,65,133/-, being 70% of the award amount, now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.188 of 2019 and the 4<sup>th</sup> respondent-TNSTC is directed to deposit a sum of



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Rs.2,42,200/-, being 30% of the award amount, now determined by this Court, along with interest and costs, within a period of twelve weeks from the date of receipt of a copy of this judgment, to the credit of the said M.C.O.P. No.188 of 2019. On such deposit, the claimant being minor, the award amount is directed to be deposited in any one of the Nationalized Bank, till the minor attains majority. Mr.Ingarsal Rajanayagam, father and next friend of the minor claimant is permitted to withdraw the accrued interest, once in three months for the welfare of the minor claimant. No costs.

(V.M.V., J) (S.M., J)  
13.10.2022

gsa

To

1.The District Judge,  
(Motor Accident Claims Tribunal),  
Karaikal.

2.The Section Officer,  
V.R Section, High Court, Madras.

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**V.M.VELUMANI,J.  
and  
SUNDER MOHAN, J.**

(gsa)

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13.10.2022