



WEB COPY



C.M.A.No.272 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**Dated: 21.06.2023**

**Coram:**

**THE HONOURABLE MRS.JUSTICE N.MALA**

**CMA.No. 272 of 2022**

Minor Maharajothi  
represented by his Next friend/  
Guardian/Mother Shanthi

...Appellant

Vs.

1. Sraswathi
2. The United India Insurance Co., Ltd.,  
146-N, Kumar Complex, Tiruchengode,  
Namakkal District.

...Respondents

**Prayer:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree passed in M.C.O.P.No.326 of 2015 dated 09.11.2021 by the learned Motor Accident Claim Tribunal Authority/ Chief Judicial Magistrate, Salem.

For Appellant : Mr.C.Paraneedharan

For Respondents : Mr.N.Sathishkumar for R1 –  
No Appearance

Mr.C.Paranthaman for R2



C.M.A.No.272 of 2022

WEB COPY

## **JUDGMENT**

This appeal is filed by the minor claimant through her Next friend/ Guardian/Mother challenging the Judgment and Decree passed in M.C.O.P.No.326 of 2015 dated 09.11.2021 by the learned Motor Accident Claim Tribunal Authority/ Chief Judicial Magistrate, Salem.

2 The claim petition was filed seeking a sum of Rs.5.00 lakhs as compensation for the injuries suffered by the minor claimant in the motor accident which occurred on 20.02.2010 while the minor was traveling in a two wheeler as pillion rider.

3 The first respondent owner of the offending vehicle remained ex-parte. The claim petition was contested by the second respondent Insurance company which filed a detailed counter denying all the allegations in the claim petition apart from disputing the negligence, quantum and liability.

4 Before the claims Tribunal, mother of the minor claimant was examined as P.W.1, the Doctor was examined as P.W.2 and Exs.P1 to P17 were marked in support of the claim. On the side of the respondents no oral and



C.M.A.No.272 of 2022

documentary evidence was adduced. Ex.C1 was marked as Court document.

WEB COPY

5 The claims Tribunal, on an assessment of the entire evidence on record, awarded a sum of Rs.3,27,676/- as compensation along with 9% interest. Not satisfied with the compensation awarded by the claims Tribunal, the claimant has filed the above appeal.

6 I have heard both the learned counsels and perused the materials available on record.

7 The accident, negligence and liability are not disputed. The only issue to be decided in the appeal is the quantum of compensation payable to the claimant.

8 The learned counsel for the appellant would submit that the claimant was aged about 8 years at the time of accident and she had suffered following injuries:

1. Diffuse Axonap injury
2. Mild Posterior interhemispheric Fissure Maemorrhage
3. Diastasis of left Occipito Mastoid Suture



C.M.A.No.272 of 2022

4. Right Femur and Tibial Fracture DCP Plating for Right Femur, Flexible

IM Nailing for Tibia was done.

9 The learned counsel further submitted that the claimant was hospitalised in two spells viz. 10<sup>th</sup> February, 2010 to 10<sup>th</sup> March, 2010, and from 12<sup>th</sup> April, 2010 to 14<sup>th</sup> April, 2010. The learned counsel therefore submitted that the Tribunal erred in awarding meagre sums towards transportation charges and Extra Nourishment.

10 The learned counsel for the respondent, on the other hand submitted that the Award of the Tribunal was just, fair and reasonable and did not call for any interference in this appeal.

11 As the counsel for the appellant has not disputed the award under other heads except transportation charges and Extra Nourishment, the award under other heads is confirmed.

12 From the discharge summary Ex.P14 and Ex.P15, it is seen that the claimant was hospitalised for more than 20 days. Considering the period of hospitalisation and the injuries suffered by the minor claimant, I am of the view



C.M.A.No.272 of 2022

that the award towards transportation to hospital can be enhanced to Rs.20,000/- and for Extra Nourishment Rs.15,000/- can be granted.

**13** In the light of the above discussion, the award of the Tribunal is modified as follows:

| <i>Sl. No.</i>            | <i>Various Heads</i>                                                                            | <i>Award of the Tribunal</i> | <i>Award of this Court</i> |
|---------------------------|-------------------------------------------------------------------------------------------------|------------------------------|----------------------------|
| 1.                        | Pain and Suffering, mental Physical Shock, Discomfort Inconvenience, Hardship loss of Amenities | 1,00,000.00                  | 1,00,000.00                |
| 2.                        | Medical expenses as per Ex.P17                                                                  | 1,32,676.00                  | 1,32,676.00                |
| 3.                        | Discomfort, Inconvenience and loss of earnings to the parents                                   | 30,000.00                    | 30,000.00                  |
| 4.                        | Incidental expenses during Hospitalization                                                      | 25,000.00                    | 25,000.00                  |
| 5.                        | Future Medical expenses                                                                         | 30,000.00                    | 30,000.00                  |
| 6.                        | Transport to Hospital                                                                           | 5,000.00                     | 20,000.00                  |
| 7.                        | Extra Nourishment                                                                               | 5,000.00                     | 15,000.00                  |
| <b>TOTAL COMPENSATION</b> |                                                                                                 | <b>3,27,676.00</b>           | <b>3,52,676.00</b>         |

**14** The learned counsel for the second respondent submits that the entire amount awarded by the Tribunal has already been deposited along with 9% interest.

**15** Therefore direction is issued to the second respondent to deposit the balance of the enhanced amount of Rs.25,000/- along with interest @ 9%



C.M.A.No.272 of 2022

within a period of four weeks from the date of receipt of a copy of this order.

WEB COPY

On such deposit being made, the claimant, who is now a major shall be entitled to withdraw the same by making proper application before the Tribunal. The appeal is accordingly partly allowed. There shall be no order as to costs.

**21.06.2023**

cgi

Index: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

1. The Motor Accident Claim Tribunal Authority,  
Chief Judicial Magistrate, Salem.
2. The Section Officer, V.R.Section, High Court, Madras.



WEB COPY



*C.M.A.No.272 of 2022*

**N.MALA.J.,**

cgi

C.M.A.No.272 of 2022

21.06.2023