



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.365 of 2023

Minor T.Pragatheeswaran  
Son of Tamilarasan,  
Rep.by Guardian/Father Tamilarasan ...Appellant

Vs.

1.S.Jayanthi

2.The Branch Manager,  
The New India Assurance Company Ltd.,  
No.56, T.S.R.Big street,  
City Centre Complex, 1st Floor,  
Kumbakonam Taluk & Town,  
Thanjavur District. ... Respondents

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 13.10.2021 made in M.C.O.P.No.180 of 2020, on the file of the Motor Accidents Claims Tribunal, (Chief Judicial Magistrate),Nagapattinam.

For Appellant : Mr.Ma.P.Thangavel  
For Mr.M.Lokesh

For R2 : Mr.S.Salomi

**J U D G M E N T**

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The appellant is the claimant in M.C.O.P.No.180 of 2020, on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate Court at Nagapattinam. He has filed the above said claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.6,00,000/- for the injuries sustained by him in a road accident that took place on 15.01.2020.

2. For the sake of convenience, the parties are hereinafter referred to as per their ranking before the claims tribunal.

3. The factum of the accident, manner of the accident, rash and negligence on the part of the driver of the offending vehicle are not disputed and hence, the findings rendered by the Claims Tribunal, are confirmed.

4. During the trial, the claim petitioner examined himself as P.W.1 and marked Exs.P1 to P6. Ex.C1, Disability Certificate issued to the petitioner by the Regional Medical Board is also marked. On the side of the respondents, no oral or documentary evidence has been let in.



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5. After going through the oral and documentary evidence adduced before the Court, the Tribunal awarded a sum of Rs.2,55,500/- as compensation together with interest at the rate of 7.5% per annum and directed the second respondent to pay the said compensation to the appellant/claimant. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988 for seeking enhancement of compensation.

6. After hearing both sides and taking note of the fact that the medical board has fixed disability at the rate of 30% and the tribunal has considered the disability of 30% and awarded a sum of Rs.3,000/- per 1% to the extent of Rs.90,000/-. Taking into consideration the date of the accident, I find that it is just and reasonable to award a sum of Rs.5,000/- per 1% of disability which is hereby enhanced to Rs.1,50,000/-.

7. Since the appellant/claimant was admitted as an in-patient from 15.01.2020 to 20.01.2020 in two different hospitals, a sum of Rs.5,000/- and Rs.6,000/- granted by the Tribunal under the heads Transportation and loss of amenities is hereby enhanced to Rs.10,000/-



8. A sum of Rs.92,500/- granted by the Tribunal under the head 'Medical Expenses' as per Ex.P6 and the compensation awarded towards other heads are just and proper and the same are hereby confirmed.

| <i><b>Sl.<br/>No</b></i> | <i><b>Head</b></i>           | <i><b>Amount<br/>awarded by<br/>the Tribunal</b></i> | <i><b>Amount<br/>awarded by<br/>this Court</b></i> | <i><b>Enhanced/<br/>Reduced</b></i> |
|--------------------------|------------------------------|------------------------------------------------------|----------------------------------------------------|-------------------------------------|
| 1.                       | Permanent disability (30%)   | Rs. 90,000/-                                         | Rs.1,50,000/-                                      | Enhanced                            |
| 2.                       | Medical Bills (Ex.P6 series) | Rs. 92,500/-                                         | Rs. 92,500/-                                       | Confirmed                           |
| 3.                       | Pain & Suffering             | Rs. 25,000/-                                         | Rs. 25,000/-                                       | Confirmed                           |
| 4.                       | Extra nourishment            | Rs. 20,000/-                                         | Rs. 20,000/-                                       | Confirmed                           |
| 5.                       | Transport Expenses           | Rs. 5,000/-                                          | Rs. 10,000/-                                       | Enhanced                            |
| 6.                       | Loss of mental agony         | Rs. 5,000/-                                          | Rs. 5,000/-                                        | Confirmed                           |
| 7.                       | Loss of income/Amenities     | Rs. 6,000/-                                          | Rs. 10,000/-                                       | Enhanced                            |
| 8.                       | Attender Charges             | Rs. 12,000/-                                         | Rs. 12,000/-                                       | Confirmed                           |
|                          | <b>Total</b>                 | <b>Rs.2,55,500/-</b>                                 | <b>Rs.3,24,500/-</b>                               | <b>Rs.69,000/-</b>                  |

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10. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed to the limited extent indicated above. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.2,55,500/- to Rs.3,24,500/-.

(iii) The appellant/claimant is directed to pay the court fee for the enhanced compensation amount, if any, and the Registry is directed to draft the decree only after the receipt of court fee.

(iv) The second respondent/The New India Assurance Company Limited is directed to deposit the enhanced compensation amount awarded by this court together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.180 of 2020, on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate Court at Nagapattinam, within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made by the second respondent, since the appellant/claimant is the minor, the tribunal directed to deposit the amount in anyone Nationalized Bank in fixed deposit till attain majority and permitted to withdraw the entire amount after attaining majority, in the manner known to law.

15.02.2023



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Index : Yes/No

Speaking/Non-speaking order

To

1.The Motor Accidents Claims Tribunal,  
Chief Judicial Magistrate,Nagapattinam.

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



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**RMT.TEEKA RAMAN, J.**

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Judgment in  
C.M.A.No.365 of 2023

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