



C.M.A.No.537 of 2000

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

**DATED : 21.11.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**C.M.A.No.537 of 2000**

N.Prakash (Minor)  
rep. by Mother and next friend  
Hamsa

... Appellant

Vs.

1.Irfaan  
(was set exparte in the Trial Court)

2.United India Insurance Company Limited,  
No.70, N.S.C.Bose Road,  
Chennai – 600 079.

... Respondents

**Prayer:**

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.01.2000 made in M.A.C.T.O.P.No.3934 of 1996 on the file of the 3<sup>rd</sup> Small Causes Court, Chennai.

For Appellant : M/s.P.T.Saleem Fathima  
for M/s.M.Swamikannu  
For Respondents : Mr.D.Baskaran for R2

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

This appeal has been filed by the appellant/ claimant challenging



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the judgment and decree passed in M.C.O.P.No.3934 of 1996 dated 25.01.2000 on the file of the 3<sup>rd</sup> Small Causes Court, Chennai.

2.The learned counsel appearing for the appellant submitted that on 04.10.1996 at about 6.30 p.m., the appellant was standing on the Southern side of the Vaidhyathan Flyover at Thondiarpet and thereafter was walking from West to East. At that time, the vehicle belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and dashed against the appellant, due to which, the appellant sustained grievous injuries. The learned counsel further submitted that the appellant was a minor at the time of accident and now he attained majority.

3.The learned counsel appearing for the appellant further submitted that thereafter, the appellant/ claimant filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.4Lakhs as compensation. After adjudication, the Tribunal awarded a sum of Rs.90,000/- as compensation along with interest at the rate of 12% per annum from the date of filing of the petition till the date of deposit. Aggrieved by the same, the claimant has preferred this



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appeal seeking enhancement in compensation. This Court vide judgment dated 11.09.2007 made in C.M.A.No.537 of 2000 enhanced the compensation amount from Rs.90,000/- to Rs.1,65,000/- with interest at the rate of 7.5% p.a. for the enhanced compensation from the date of petition. Aggrieved by the same, the appellant preferred appeal before the Hon'ble Apex Court and the Hon'ble Apex Court has set aside the order of this Court and remanded back the matter to this Court on the ground that the appellant is entitled to get reasonable compensation.

4.The learned counsel appearing for the appellant further submitted that since the appellant lost his vision completely in the right eye and partially in the left eye, the appellant is entitled to get compensation by following the decision of the Hon'ble Apex Court reported in **2013 AIR SCW 6452 = (2014) 14 SCC 396 [Master Mallikarjunar Vs. Divisional Manager, the National Insurance Co. Ltd. And another]**.

5.The learned counsel appearing for the second respondent Insurance Company submitted that this Court may fix reasonable



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compensation by following the decision of the Hon'ble Apex Court reported in **2013 AIR SCW 6452 = (2014) 14 SCC 396 [Master Mallikarjunar Vs. Divisional Manager, the National Insurance Co. Ltd. And another]**.

6. Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the second respondent and perused the materials available on record.

7. The accident and the manner in which the accident happened are not disputed. The Hon'ble Apex Court has remanded back the matter to this Court only for fixation of fair compensation. The Tribunal awarded a sum of Rs.90,000/- as compensation to the claimant and this Court enhanced the compensation amount from Rs.90,000/- to Rs.1,65,000/-.

8. As per the decision of the Hon'ble Apex Court reported in **2013 AIR SCW 6452 = (2014) 14 SCC 396 [Master Mallikarjunar Vs. Divisional Manager, the National Insurance Co. Ltd. And another]**, the appropriate compensation, if the disability is above 10% and upto 30% to the whole body should be Rs.3 lakhs;



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upto 60% should be Rs.4 lakhs; upto 90% should be Rs.5 lakhs and above 90% should be Rs.6 lakhs.

9.In the present case, the Doctor has assessed the disability at 40%. Following the decision cited supra, the appropriate compensation would be Rs.4 Lakhs. Since the accident is of the year 1996 and since the appellant lost his vision completely in the right eye and partially in the left eye and considering the compensation awarded under the other heads, this Court is inclined to fix a sum of Rs.5 Lakhs as compensation to the appellant/ claimant.

10.Accordingly, the appellant/ claimant is entitled to total compensation of Rs.5,00,000/- along with interest at the rate of 7.5%p.a. from the date of petition to till date (21.11.2024). It is known from the judgment of this Court dated 11.09.2007 made in C.M.A.No.537 of 2000 that the appellant has attained the age of majority.

11.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal



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within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellant is permitted to withdraw the entire modified/ enhanced award amount with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required.

12.The civil miscellaneous appeal is allowed on the above terms. The judgment and decree passed in M.C.O.P.No.3934 of 1996 dated 25.01.2000 by the 3<sup>rd</sup> Small Causes Court, Chennai, is modified to the above extent. No costs.

**21.11.2024**

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The 3<sup>rd</sup> Small Causes Court,  
Chennai.

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**M.DHANDAPANI,J.**  
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