



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 27.11.2023

PRONOUNCED ON : 12.01.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)Nos.331 to 336 of 2019

C.M.A.(MD)No.331 of 2019:-

Divisional Manager,
The Oriental Insurance Company Limited,
Divisional Office,
Prominent Road,
Cantonment,
Tiruchirappalli – 1.

... Appellant/2nd Respondent

Vs.

1.J.R.Shanthi

... 1st Respondent/Petitioner

2.Jeyakodi

... 2nd Respondent/1st Respondent

(2nd Respondent remained exparte
Before the lower Court)

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment made in M.C.O.P.No.2931 of 2013 dated 11.04.2018, on the file of the Motor Accident Claims Tribunal Cum Special District Judge, (Full Additional Charge), Tiruchirappalli.

C.M.A.(MD)No.332 of 2019:-

Divisional Manager,
The Oriental Insurance Company Limited,
Divisional Office,



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

Prominent Road,
Cantonment,
Tiruchirappalli – 1.

... Appellant/2nd Respondent

Vs.

1.Minor Akshaya Prasana
(Minor 1st respondent rep. By his
guardian and next friend father
A.S.Venkatesh Babu)

... 1st Respondent/Petitioner

2.Jeyakodi
(2nd Respondent remained exparte
Before the lower Court)

... 2nd Respondent/1st Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment made in M.C.O.P.No.2933 of 2013 dated 11.04.2018, on the file of the Motor Accident Claims Tribunal Cum Special District Judge, (Full Additional Charge), Tiruchirappalli.

C.M.A.(MD)No.333 of 2019:-

Divisional Manager,
The Oriental Insurance Company Limited,
Divisional Office,
Prominent Road,
Cantonment,
Tiruchirappalli – 1.

... Appellant/2nd Respondent

Vs.

1.P.R.Ravi
2.Jeyakodi
(2nd Respondent remained exparte
Before the lower Court)

... 1st Respondent/Petitioner

... 2nd Respondent/1st Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment made in M.C.O.P.No.5459 of 2013 dated 11.04.2018, on the file of the Motor



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

Accident Claims Tribunal Cum Special District Judge, (Full Additional Charge), Tiruchirappalli.

C.M.A.(MD)No.334 of 2019:-

Divisional Manager,
The Oriental Insurance Company Limited,
Divisional Office,
Prominent Road,
Cantonment,
Tiruchirappalli – 1.

... Appellant/2nd Respondent

Vs.

1.Kamala

... 1st Respondent/Petitioner

2.Jeyakodi

... 2nd Respondent/1st Respondent

(2nd Respondent remained exparte
Before the lower Court)

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment made in M.C.O.P.No.2935 of 2013 dated 11.04.2018, on the file of the Motor Accident Claims Tribunal Cum Special District Judge, (Full Additional Charge), Tiruchirappalli.

C.M.A.(MD)No.335 of 2019:-

Divisional Manager,
The Oriental Insurance Company Limited,
Divisional Office,
Prominent Road,
Cantonment,
Tiruchirappalli – 1.

... Appellant/2nd Respondent

Vs.

1.Devi

2.Lakshmi

3.Kasthuri

... 1 to 3 Respondents/Petitioners

3/28



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

4.Jeyakodi

... 2nd Respondent/1st Respondent

(4th Respondent remained exparte
Before the lower Court)

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment made in M.C.O.P.No.5455 of 2013 dated 11.04.2018, on the file of the Motor Accident Claims Tribunal Cum Special District Judge, (Full Additional Charge), Tiruchirappalli.

C.M.A.(MD)No.336 of 2019:-

Divisional Manager,
The Oriental Insurance Company Limited,
Divisional Office,
Prominent Road,
Cantonment,
Tiruchirappalli – 1.

... Appellant/2nd Respondent

Vs.

1.Devi

... 1st Respondent/Petitioner

2.Jeyakodi

... 2nd Respondent/1st Respondent

(2nd Respondent remained exparte
Before the lower Court)

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment made in M.C.O.P.No.5457 of 2013 dated 11.04.2018, on the file of the Motor Accident Claims Tribunal Cum Special District Judge, (Full Additional Charge), Tiruchirappalli.

For Appellant (in all C.M.As) : Mr.C.Jawahar Ravindran

For Claimants (in all C.M.As) :Mr.N.Sudhagar Nagaraj



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

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COMMON JUDGMENT

These Civil Miscellaneous Appeals have been directed as against the common judgment and award on certain counts passed by the learned Motor Accident Claims Tribunal Cum Special District Judge (Full Additional Charge), at Tiruchirappalli in M.C.O.P.Nos.2931, 2933, 5459, 2935, 5455 and 5457 of 2013 dated 11.04.2018 by the appellant/second respondent/insurance company.

2.For the sake of convenience, the parties herein are arrayed as per the rank of the respective M.C.O.Ps. before the learned Tribunal and C.M.A.(MD)No.331 of 2019 is taken as lead case.

3.The brief facts leading to the filing of the Civil Miscellaneous Appeal is as follows:-

On 21.05.2012, all the petitioners and few others rented a Tata City Rider van bearing registration No.TN-22-AX-7645. At about 01.00 p.m., on the same day, having visited Meenampakam Airport, travelling along the GST road, Sanatorium, opposite to Anjaneyar Temple, the driver of



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

the said van in uncontrollable speed dashed as against the centre median of the said road and the said van was capsized. As the result of which, the petitioners sustained multiple injuries all over the body. In all the said claim petitions except M.C.O.P.No.5455 of 2013, the petitioners are the injured. The deceased Rajeswari in M.C.O.P.No.5455 of 2013 was taken to Parvathi Hospital, Chennai and was admitted as an inpatient from 21.05.2012 to 08.06.2012 and thereafter on 08.06.2012, she died. In M.C.O.P.No.5455 of 2013, the petitioners are the legal heirs of the deceased Rajeswari who died in the said accident and they have claimed a sum of Rs.25,00,000/- as compensation. The nature of injuries suffered by various petitioners and compensation claimed by them are elaborated as below:-

Sl. No .	M.C.O.P. No.	Petitioner's name and age	Hospital date and admission	Injuries sustained	Compensation claimed
1.	2931 of 2013	J.R.Santhi aged about 55 years	Admitted as in patient in Parvathi Hospital, Chennai from 21.05.2012 to 30.05.2012	Multiple grievous injuries all over the body including head injury, left side rib fracture, right side ear, spinal cord fracture	Rs.20,00,000/-



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

2.	2933 2013	of	Minor Ahsaya Prasana aged about 6 years	Admitted as in patient in Parvathi Hospital, Chennai from 21.05.2012 to 30.05.2012	Multiple grievous injuries all over the body including right side hip bone joint fracture	Rs.50,00,000/-
3.	2935 2013	of	Kamala aged about 65 years	Admitted as in patient in Parvathi Hospital, Chennai from 21.05.2012 to 29.05.2012	Multiple grievous injuries all over the body including left and right hand bone fracture	Rs.10,00,000/-
4.	5457 2013	of	Devi aged about 45 years	Admitted as in patient in Parvathi Hospital, Chennai from 21.05.2012 to 29.05.2012	Multiple grievous injuries all over the body including fracture of vertebra in the spinal coloum	Rs.50,00,000/-
5.	5459 2013	of	P.R.Ravi aged about 58 years	Admitted as in patient in Parvathi Hospital, Chennai from 21.05.2012 to 25.05.2012	Multiple grievous injuries all over the body including bone fracture on right shoulder	Rs.50,00,000/-

4.Refuting all the allegations put forth in the claim petitions in all the four M.C.O.Ps., the second respondent had filed counter in all the M.C.O.Ps.



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

5.The Tribunal has framed two issues. Ten witnesses P.W.1 to P.W.10 were examined on the side of the petitioners and Ex.P1 to Ex.P67 were marked. One witness was examined as R.W.1 and Ex.R1 was marked on the side of the respondents. On the basis of the oral and documentary evidence and the arguments submitted by both the parties, the learned Tribunal concluded that the accident happened only due to the rash and negligent driving of the first respondent's driver. Hence, it was decided by the learned Tribunal that the respondents 1 and 2 are liable to pay compensation for the petitioners, who have claimed compensation in all the cases on the basis of various factors. As far as the quantum of compensation is concerned, except M.C.O.P.No.5455 of 2019 all the cases are injured.

6.In **M.C.O.P.No.2931 of 2013**, P.W.4 J.R.Shanthi has stated that she sustained fracture injuries in D1 to D8 spinal cord. To substantiate the same, the wound certificate, discharge summary, medical prescription were marked as Ex.P20 and Ex.P22. Medical bills to the tune of Rs. 2,81,850/- was marked as Ex.P23 and case history was marked as Ex.P24. P.W.10 Dr.Ravi had given disability certificate and the same is



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

marked as Ex.P58 and fixed disability as 42%. P.W.10 in his cross examination admitted that if P.W. 4 followed the medical advice properly, due to the age of P.W.4 that is 54 years, the partial permanent disability may reduced to 2 to 3 %. Hence, the learned Tribunal has fixed the partial permanent disability as 40% and awarded Rs.3,000/- per percentage. The learned Tribunal has awarded the compensation under following heads:-

Head	Compensation awarded
(I)Partial Permanent disability, Pain and suffering and suffering in total:	Rs.2,50,000/-
(ii)Transportation Expenses, Attendant Charges and Extra Nourishment:	Rs.15,000/-
(iii)Medical bill as per Ex.P23:	Rs.2,81,500.50/-
(iv)Loss of Amenities:	Rs.1,00,000/-
(v)Loss of income for six months (Rs.5,000x6):	Rs.30,000/-
Total compensation awarded:	Rs.6,76,800.50/- rounded off to Rs. 6,77,000/- with interest @ 7.5 % from the date of the claim until the realization and costs.

7.In **M.C.O.P.No.2933 of 2013**, P.W.3 stated that his son took treatment at Parvathi Hospital from 21.05.2012 to 30.05.2012 and he was treated at Leo Joseph hospital at Thanjavur. The wound certificate and



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

accident register were marked as Ex.P14. CT Scan as Ex.P15, discharge summary as Ex.P16, treatment report as Ex.P17, the medical bills to the tune of Rs.55,574.50/- marked as Ex.P18 and future treatment report by Dr.Leo was marked as Ex.P19. P.W.10 Dr.Ravi has deposed that the said Akshaya Prasanna was 4 years old at the time of accident and he has permanent deformity and has difficulty in moving and walking. P.W.10 has fixed partial permanent disability at 35% and issued partial permanent disability certificate which is marked as Ex.P60. P.W.10 in his cross examination admitted that if the injured Akshaya Prasanna followed the Doctor's instructions and did physiotherapy regularly 2 to 3% of disability would decrease. Hence, the learned Tribunal has fixed the partial permanent disability at 25% and awarded a sum of Rs.3,000/- per percentage. The learned Tribunal has awarded the compensation under following heads:-

Head	Compensation awarded
(I)Partial Permanent disability, Pain and suffering and suffering in total:	Rs.2,75,000/-
(ii)Transportation Expenses, Attendant Charges and Extra Nourishment:	Rs.15,000/-
(iii)Medical bill as per Ex.P8:	Rs.55,574.50/-
(iv)Loss of Amenities:	Rs.2,00,000/-



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

Total compensation awarded:	Rs.5,45,574.50/- rounded off to Rs. 5,45,600/- with interest @ 7.5 % from the date of the claim until the realization and costs.
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8.In **M.C.O.P.No.2935 of 2013**, PW.5 Kamala stated that she sustained injuries on the right hand, jaw and the teeth was damaged. The wound certificate and discharge summary of Parvathi hospital were marked as Ex.P26 and Ex.P27 respectively. CT scan was marked as Ex.P28. The medical bill to the tune of Rs.3,21,140/- was marked as Ex.P29. The case sheet Ex.P30, discharge summary of Vinodhan hospital Ex.P31 were marked. Dr.Ravi was examined as P.W.10 and he had given disability certificate which is marked as Ex.P62 and X ray as Ex.P63 and partial permanent disability was fixed at 44%. P.W.10 in his cross examination admitted that if P.W.5 followed the Doctor's instructions and did physiotherapy regularly 2 to 3% of disability would decrease. Hence, the learned Tribunal has fixed the partial permanent disability as 40% and awarded Rs.3,000/- per percentage. The learned Tribunal has awarded the compensation under following heads:-

Head	Compensation awarded
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C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

(I)Partial Permanent disability, Pain and suffering and suffering in total:	Rs.2,50,000/-
(ii)Transportation Expenses, Attendant Charges and Extra Nourishment:	Rs.15,000/-
(iii)Medical bill as per Ex.P29:	Rs.3,21,140/-
(iv)Loss of Amenities:	Rs.1,00,000/-
(v)Loss of income for six months (Rs.5,000x6):	Rs.30,000/-
Total compensation awarded:	Rs.7,16,140/- rounded off to Rs. 7,16,200/- with interest @ 7.5 % from the date of the claim until the realization and costs.

9.M.C.O.P.No.5455 of 2013 is a fatal case in which, one Rajeshwari died and her age on the basis of post mortem report marked as Ex.P40 is 66 years. Though the second respondent had taken a defence that the deceased Rajeshwari did not die due to injuries sustained in the accident, the same was not proved by the second respondent with proper oral and documentary evidence. The legal heirs certificate was marked as Ex.P41, the death summary as Ex.P42, scan report as Ex.P43, medical prescription as Ex.P44 and Hospital bill, medicine and medical equipment for treatment bills for Rs.7,26,079/- were marked as Ex.P39. As per the dictum of the Hon'ble Supreme Court in the case of Sarala Verma and others v. Delhi Transport Corporation and other reported in 12/28



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

2009 (2) TNMAC 1, 1/3rd of the income of the deceased was deducted towards personal expenses, the contribution towards family was arrived at Rs.3,334/- [Rs.5,000-1,666(Rs.5,000x1/3)]. As per Sarala Verma case, the multiplier '5' was adopted. The loss of income was calculated as Rs. 2,00,040/- (3,334x12x5). The learned Tribunal has awarded the compensation under following heads:-

Head	Compensation awarded
(I) Loss of Income [Rs.3334x12x5 (Rs.5,000-Rs.1666=Rs.3334)(Rs. 5,000x1/3=1666)]:	Rs.2,00,040/-
(ii) Loss of love and affection of petitioner:	Rs.3,00,000/-
(iii) Funeral and Transportation Expenses:	Rs.15,000/-
(iv) Hospital bill, Medicine and Medical Equipment for treatment Bills:	Rs.7,26,079/-
Total compensation awarded:	Rs.12,41,119/- with interest @ 7.5 % from the date of the claim until the realization and costs.

10.As far as **M.C.O.P.No.5457 of 2013** is concerned, P.W.6 Devi has stated that she sustained fracture injuries in C3 to C4 spinal cord. To substantiate the same, the wound certificate was marked as Ex.P3 and Ex.P4. Medical bill to the tune of Rs.2,29,212/- was marked as Ex.P35



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

and case history was marked as Ex.P36, the follow up treatment particulars were marked as Ex.P37, Ex.P38 respectively. Though she claimed Rs.10,000/- towards monthly income, no proof of income was filed. A notional income of Rs.6,000 was fixed by the learned Tribunal. Dr.Ravi was examined as P.W.10 and he had given disability certificate which is marked as Ex.P64 and partial permanent disability was fixed at 38%. P.W.10 in his cross examination admitted that if P.W.6 followed the Doctor's instructions and did physiotherapy regularly 2 to 3% of disability could decrease. Hence, the learned Tribunal has fixed the partial permanent disability at 30% and awarded Rs.3,000/- compensation per percentage. The learned Tribunal has awarded the compensation under following heads:-

Head	Compensation awarded
(I)Partial Permanent disability, Pain and suffering and suffering in total:	Rs.2,00,000/-
(ii)Transportation Expenses, Attendant Charges and Extra Nourishment:	Rs.15,000/-
(iii)Loss of income for six months:	Rs.39,000/-
(iv)Medical bill as per Ex.P35:	Rs.2,29,212/-
(v)Loss of Amenities:	Rs.1,00,000/-



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

Total compensation awarded:	Rs.5,83,212/- with interest @ 7.5 % from the date of the claim until the realization and costs.
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11.In **M.C.O.P.No.5459 of 2013**, PW.8 P.R.Ravi stated that he sustained fracture injury in his left hand and his full hand was damaged. The wound certificate and discharge summary of Parvathi hospital were marked as Ex.P50 and Ex.P51 respectively. The medical bills to the tune of Rs.2,14,927/- was marked as Ex.P53 and future operation treatment chart of Dr.Leo Joseph was marked as Ex.P54. The case sheet was marked as Ex.P52 and discharge summary of Vinodhan hospital as Ex.P31. Dr.Ravi was examined as P.W.10 and he had given disability certificate Ex.P66 and Ex.P67 and partial permanent disability was fixed at 38%. P.W.10 in his cross examination admitted that if P.W.8 the injured followed the Doctor's instructions and did physiotherapy regularly 2 to 3% of disability could decrease. Hence, the learned Tribunal has fixed the partial permanent disability at 35% and awarded Rs.3,000/- compensation per percentage. The learned Tribunal has awarded the compensation under following heads:-



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

Head	Compensation awarded
(I)Partial Permanent disability, Pain and suffering and suffering in total:	Rs.2,50,000/-
(ii)Transportation Expenses, Attendant Charges and Extra Nourishment:	Rs.15,000/-
(iii)Medical bill as per Ex.P53:	Rs.2,14,927.60/-
(iv)Loss of Amenities:	Rs.1,00,000/-
Total compensation awarded:	Rs.5,34,927.60/- rounded off to Rs.5,35,000/- with interest @ 7.5 % from the date of the claim until the realization and costs.

12.Challenging the same, the appellant/second respondent/insurance company has filed this Civil Miscellaneous Appeal challenging the quantum fixed by the learned Tribunal.

13.As far as **M.C.O.P.No.2931 of 2013** is concerned, the learned Tribunal has awarded Rs.2,50,000/- towards partial permanent disability and pain and suffering, which is exorbitant. The learned Tribunal ought not to have awarded a sum of Rs.1,00,000/- towards loss of amenities.

14.A critical perusal of the materials available in record would



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

reveal that the learned Tribunal has awarded exorbitant compensation under partial permanent disability, pain and suffering and loss of amenities. Hence, this Court is inclined to modify the same. Hence, the compensation towards partial permanent disability is to be calculated as $\text{Rs.}3000 \times 40\% = \text{Rs.}1,20,000/-$ and for pain and suffering, a sum of Rs. 25,000/- is awarded. Under the head loss of amenities, a sum of Rs. 25,000/- is awarded. Thereby, the total compensation is reduced from Rs. 6,77,000/- to Rs.4,97,000/-.

Head	Compensation awarded before learned Tribunal	Compensation awarded before this Court	Reduced/ Confirmed
(I)Partial Permanent disability and Pain and suffering and suffering in total:	Rs.2,50,000/-	Rs.1,45,000/-	Reduced
(ii)Transportation Expenses, Attendant Charges and Extra Nourishment:	Rs.15,000/-	Rs.15,000/-	Confirmed
(iii)Medical bill as per Ex.P23:	Rs.2,81,500.50/-	Rs.2,81,500.50/-	Confirmed
(iv)Loss of Amenities:	Rs.1,00,000/-	Rs.25,000/-	Reduced



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

(v) Loss of income for six months (Rs. 5,000x6):	Rs.30,000/-	Rs.30,000/-	Confirmed
Total compensation awarded:	Rs.6,76,800.50 @ Rs.6,77,000/-	Rs.4,96,500.50/- which is rounded off to Rs.4,97,000/-	Reduced

15.As far as **M.C.O.P.No.2933 of 2013** is concerned, the learned Tribunal has awarded Rs.2,75,000/- towards partial permanent disability and pain and suffering, which is exorbitant. The learned Tribunal ought not to have awarded a sum of Rs.2,00,000/- towards loss of amenities.

16.A critical perusal of the materials available in record would reveal that the learned Tribunal has awarded exorbitant compensation under the loss of amenities. Hence, this Court is inclined to modify the same. Hence, the compensation of Rs.50,000/- is awarded towards loss of amenities. Considering the fact that the injured Akshaya Prasanna is minor, this Court is not inclined to interfere with the award passed under the head partial permanent disability and pain and suffering. Thereby, the total compensation is reduced from Rs.5,45,600/- to Rs.3,96,000/-.



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

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Head	Compensation awarded before learned Tribunal	Compensation awarded before this Court	Reduced/ Confirmed
(I)Partial Permanent disability, Pain and suffering and suffering in total:	Rs.2,75,000/-	Rs.2,75,000/-	Confirmed
(ii)Transportation Expenses, Attendant Charges and Extra Nourishment:	Rs.15,000/-	Rs.15,000/-	Confirmed
(iii)Medical bill as per Ex.P8:	Rs.55,574.50/-	Rs.55,574.50/-	Confirmed
(iv)Loss of Amenities:	Rs.2,00,000/-	Rs.50,000/-	Reduced
Total compensation awarded:	Rs.5,45,574.50/- @ Rs.5,45,600/-	Rs.3,95,574.50/- which is rounded off to Rs.3,96,000/-	Reduced

17.As far as **M.C.O.P.No.2935 of 2013** is concerned, the learned Tribunal has awarded Rs.2,50,000/- towards partial permanent disability and pain and suffering, which is exorbitant. The learned Tribunal ought not to have awarded a sum of Rs.1,00,000/- towards loss of amenities.



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

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18.A critical perusal of the materials available in record would reveal that the learned Tribunal has awarded exorbitant compensation under partial permanent disability and loss of amenities. Hence, this Court is inclined to modify the same. Hence, the compensation towards partial permanent disability is to be calculated as Rs.3000x40%=Rs. 1,20,000/- and for pain and suffering, a sum of Rs.25,000/- is awarded. Under the head loss of amenities, a sum of Rs.25,000/- is awarded. Thereby, the total compensation is reduced from Rs.7,16,200/- to Rs. 5,36,140/-.

Head	Compensation awarded before learned Tribunal	Compensation awarded before this Court	Reduced/ Confirmed
(I)Partial Permanent disability and Pain and suffering and suffering in total:	Rs.2,50,000/-	Rs.1,45,000/-	Reduced
(ii)Transportation Expenses, Attendant Charges and Extra Nourishment:	Rs.15,000/-	Rs.15,000/-	Confirmed



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

(iii)Medical bill as per Ex.P23:	Rs.3,21,140/-	Rs.3,21,140/-	Confirmed
(iv)Loss of Amenities:	Rs.1,00,000/-	Rs.25,000/-	Reduced
(v)Loss of income for six months (Rs. 5,000x6):	Rs.30,000/-	Rs.30,000/-	Confirmed
Total compensation awarded:	Rs.7,16,140/- @ Rs.7,16,200/-	Rs.5,36,140/-	Reduced

19.As far as **M.C.O.P.No.5455 of 2013** is concerned, the learned Tribunal erred in awarding compensation under the head of loss of income and the compensation under the head love and affection and application of multiplier is incorrect.

20.A critical perusal of the materials available in record would reveal that the loss of income is duly calculated. However, towards loss of love and affection, an exorbitant amount of Rs.3,00,000/- by calculating Rs.1,00,000/- per head has been awarded and the same has to be reduced by following the dictum laid down in ***Magma General Insurance Co. Ltd. v Nanu Ram and others*** reported in **2018 ACJ 2782 (SC)**, the same should have been Rs.40,000/- each. Thereby, the total



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

compensation is reduced from Rs.12,41,119/- to Rs.10,61,119/-.

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Head	Compensation awarded before learned Tribunal	Compensation awarded before this Court	Reduced/ Confirmed
(I) Loss of Income [Rs. 3334x12x5 (Rs. 5,000-Rs. 1666=Rs.3334) (Rs. 5,000x1/3=1666)]:	Rs.2,00,040/-	Rs.2,00,040/-	Confirmed
(ii) Loss of love and affection of petitioner:	Rs.3,00,000/-	Rs.1,20,000/-	Reduced
(iii) Funeral and Transportation Expenses:	Rs.15,000/-	Rs.15,000/-	Confirmed
(iv) Hospital bill, Medicine and Medical Equipment for treatment Bills:	Rs.7,26,079/-	Rs.7,26,079/-	Confirmed
Total compensation awarded:	Rs.12,41,119/-	Rs.10,61,119/-	Reduced

21.As far as **M.C.O.P.No.5457 of 2013** is concerned, the learned Tribunal has awarded Rs.2,00,000/- towards partial permanent disability and pain and suffering, which is exorbitant. The learned Tribunal ought



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

not to have awarded a sum of Rs.1,00,000/- towards loss of amenities.

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22.A critical perusal of the materials available in record would reveal that the learned Tribunal has awarded exorbitant compensation under partial permanent disability and loss of amenities. Hence, this Court is inclined to modify the same. Hence, the compensation towards partial permanent disability is to be calculated as $\text{Rs.}3000 \times 30\% = \text{Rs.}90,000/-$ and for pain and suffering, a sum of Rs.25,000/- is awarded. Under the head loss of amenities, a sum of Rs.25,000/- is awarded. Thereby, the total compensation is reduced from Rs.5,83,212/- to Rs.3,98,212/-.

Head	Compensation awarded before learned Tribunal	Compensation awarded before this Court	Reduced/ Confirmed
(I)Partial Permanent disability, Pain and suffering and suffering in total:	Rs.2,00,000/-	Rs.1,15,000/-	Reduced
(ii)Transportation Expenses, Attendant Charges and Extra Nourishment:	Rs.15,000/-	Rs.15,000/-	Confirmed



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

(iii) Loss of income for six months:	Rs.39,000/-	Rs.39,000/-	Confirmed
(iv) Medical bill as per Ex.P35:	Rs.2,29,212/-	Rs.2,29,212/-	Confirmed
(v) Loss of Amenities:	Rs.1,00,000/-	Rs.25,000/-	Reduced
Total compensation awarded:	Rs.5,83,212/-	Rs.3,98,212/-	Reduced

23.As far as **M.C.O.P.No.5459 of 2013** is concerned, the learned Tribunal has awarded Rs.2,50,000/- towards partial permanent disability and pain and suffering, which is exorbitant. The learned Tribunal ought not to have awarded a sum of Rs.1,00,000/- towards loss of amenities.

24.A critical perusal of the materials available in record would reveal that the learned Tribunal has awarded exorbitant compensation under partial permanent disability and loss of amenities. Hence, this Court is inclined to modify the same. Hence, the compensation towards partial permanent disability is to be calculated as $\text{Rs.3000} \times 35\% = \text{Rs.1,05,000/-}$ and for pain and suffering, a sum of Rs.25,000/- is awarded. Under the head loss of amenities, a sum of Rs.25,000/- is awarded.



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

Thereby, the total compensation is reduced from Rs.5,35,000/- to Rs. 3,85,000/-.

Head	Compensation awarded before learned Tribunal	Compensation awarded before this Court	Reduced/ Confirmed
(I)Partial Permanent disability and Pain and suffering and suffering in total:	Rs.2,50,000/-	Rs.1,30,000/-	Reduced
(ii)Transportation Expenses, Attendant Charges and Extra Nourishment:	Rs.15,000/-	Rs.15,000/-	Confirmed
(iii)Medical bill as per Ex.P23:	Rs.2,14,927.60/-	Rs.2,14,927.60/-	Confirmed
(iv)Loss of Amenities:	Rs.1,00,000/-	Rs.25,000/-	Reduced
Total compensation awarded:	Rs.5,34,927.60/- @ Rs.5,35,000/-	Rs.3,84,927.60/- which is rounded off to Rs.3,85,000/-	Reduced

25.The petitioners/claimants are entitled to aforesaid compensation with interest at the rate of 7.5% from the date of the claim petition till the date of realization. The appellant/insurance company is directed to



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

deposit the award amount with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. On such deposit, the major claimants are permitted to withdraw the award amount after deducting any amount received by them earlier without filing any formal petition before the Tribunal. Insofar as the share of the minor claimant/petitioner in Ahsaya Prasana is concerned, the learned Tribunal is directed to deposit the award amount in a Fixed Deposit under a periodically renewable scheme till they attain majority and the Guardian of the minor is permitted to withdraw the interest accrued thereon once in three months for the welfare of the minors. The appellant/insurance company is entitled to withdraw the excess amount if any.



C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

26. Accordingly, these Civil Miscellaneous Appeals stands partly

allowed. There shall be no order as to costs.

12.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

1. The Motor Accident Claims Tribunal cum
Special District Judge, (Full Additional Charge),
Tiruchirappalli.

2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD).Nos.331, 332, 333, 334, 335 and 336 of 2019

L.VICTORIA GOWRI, J.

Mrn

C.M.A.(MD)Nos.331 to 336 of 2019

12.01.2024