



C.M.A.No.1031 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 09.04.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.1031 of 2025
and C.M.P.No.8608 of 2025

The Branch Manager,
Cholamandalam MS General Insurance Co. Ltd.,
No. 163, Hari Nivas Towers,
2nd Floor, Thambu Chetty Street,
Parrys corner, Chennai – 1.

... Appellant

vs.

1.Minor Ramanavel
(Rep. by his Natural Guardian Mother Aadhilakshmi)
Valluvar Street, Paravaai Village,
Kunnam Taluk.

2.The Secretary,
Ariyalur Engineering College,
New Jai Bharat Educational Trust,
Trichy – Chidambaram Main Road,
Karuppur Senapathi & Post, Ariyalur District

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Judgment and Decree dated 25.04.2024 made in M.C.O.P.No.260 of 2022 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Perambalur.

For Appellant : Mr.Sivakollappan

For R1 : Mr.P.Senthilkumar

For R2 : Notice Dispensed With



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J U D G M E N T

WEB COPY The Civil Miscellaneous Appeal has been preferred by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Perambalur in M.C.O.P.No.260 of 2022, dated 25.04.2024, questioning the same on the ground of quantum.

2. According to the 1st respondent/claimant, he filed a claim petition seeking compensation for the injuries suffered by him in a road accident that had occurred on 25.07.2019 represented by his mother. According to the 1st respondent/minor claimant, he was walking in the left hand side of the Veppur-Kunnam Main Road on 25.07.2019. At that point of time, the bus bearing Registration No.TN 61 T 9622 belonged to the 2nd respondent insured with the Appellant-Insurance Company came in a rash and negligent manner and dashed against the minor claimant. As a result of the accident, he suffered fracture injury in the right mandible and simple injuries all over the body. Hence, a claim petition was filed seeking compensation of Rs.25,00,000/-.



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3. The 2nd respondent-owner of the vehicle remained *exparte* before the Tribunal and the claim petition was opposed by the appellant-insurance company on the ground that the Driver of the bus had driven the vehicle by following the traffic rules and the accident had occurred only due to the sudden crossing of the road by the minor claimant.

4. Before the Tribunal, the mother of the claimant was examined as PW.1 and yet another witness was examined as PW.2. On behalf of the claimant, 6 documents were marked as Exs.P1 to P6. On behalf of the appellant-Insurance Company, the Junior Assistant, RTO Office, Perambalur was examinead as RW.1 and 3 documents were marked on behalf of the insurance company as Exs.R1 to R3. The Disability Certificate issued by the Medical Board to the claimant was marked as Ex.C1.

5. The Tribunal based on the evidence available on record, came to the conclusion that accident had occurred only due to the negligence on the part of the driver of the bus insured with the appellant. The compensation payable to the minor claimant was quantified at Rs.2,41,500/-. Aggrieved by the quantum of compensation, the Insurance Company has come before this Court.



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6. The learned counsel appearing for the appellant as well as learned counsel appearing for the 1st respondent have not advanced any arguments on the questions of negligence and liability. Hence, facts necessary to decide those questions are not discussed in this judgment.

7. The learned counsel appearing for the Appellant-Insurance Company would submit that the Tribunal having followed the law laid down by the Apex Court in ***Master Mallikarjun Vs. Divisional Manager, National Insurance Company Limited and another*** reported in **2013 (2) TNMAC 338**, ought not have awarded compensation separately under the head nutritional expenses, attender charges and transportation charges. The learned counsel further submitted that the amount awarded by the Tribunal under the head loss of income for parents of the minor claimant was excessive.

8. The learned counsel appearing for the 1st respondent/minor claimant would submit that the minor claimant was hospitalised twice and had taken treatment for a long period. Therefore, according to him, the Tribunal was justified in awarding Rs.40,000/- under the head



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inconvenience caused to the parents. He further submitted that having regard to the nature of injuries suffered by the minor claimant, the compensation fixed by the Tribunal is fair and reasonable.

9. It is seen from the claim petition, the minor claimant suffered fracture injury in right mandible and simple injuries all over the body.

10. It is seen from the Discharge Slips marked as Exs.P2 and P3, the claimant was in hospital for 4 days from 25.07.2019 to 28.07.2019. Subsequently, he was in hospital for 3 days from 08.05.2023 to 10.05.2023. In order to assess the disability suffered by the minor claimant, he was referred to Medical Board and Ex.C1-Disability Certificate was issued by the competent Medical Board fixing disability at 2%. The Tribunal taking into consideration the law laid down by the Apex Court in ***Master Mallikarjun Vs. Divisional Manager, National Insurance Company Limited and another*** reported in ***2013 (2) TNMAC 338***, rightly fixed Rs.1,00,000/- towards compensation for the disability suffered by the minor claimant.



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11. Having awarded a sum of Rs.1,00,000/- under the head injury suffered by the claimant, the Tribunal committed an error in awarding the amount separately under the heads nutritional expenses, attender charges, transportation charges and the same is against the law laid down by the Apex Court in the above mentioned case law. Therefore, the amount awarded by the Tribunal under the heads nutritional expenses, attender charges, and transportation charges are set aside.

12. As mentioned earlier, as per the discharge slips, the claimant was in hospital totally only for 7 days and however, the Tribunal committed an error in granting loss of income for 4 months. Taking into consideration, the period of hospitalisation in 2 phases, this Court is inclined to grant Rs.20,000/- towards inconvenience and loss of income caused to the parents during treatment period. The amount awarded under the head medical expenses is based on bills produced by the claimants and hence, it is confirmed. Accordingly, the award passed by the Tribunal is modified as follows:-



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Sl. No.	Description	Compensation awarded by the Tribunal	Compensation awarded by this Court	Remarks
1.	Disability, Pain and Suffering and loss of amenities	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed
2.	Nutritional Expenses	Rs.5,000/-	-	Set Aside
3.	loss of income and inconvenience caused to the parents during treatment period	Rs.40,000/-	Rs.20,000/-	Reduced
4.	Attender Charges	Rs.3,000/-	-	Set Aside
5.	Medical Bills	Rs.88,444/-	Rs.88,444/-	Confirmed
6.	Transportation Expenses	Rs.5,000/-	-	Set Aside
Total Compensation		Rs.2,41,441/-	Rs.2,08,444/-	Reduced
Rounded Off		Rs.2,41,500/-	Rs.2,08,444/-	Reduced by Rs.33,056/-

13. In view of the discussions made earlier, the compensation payable to the 1st respondent/claimant is reduced to Rs.2,08,444/-. The Appellant/Insurance Company is directed to deposit the award amount of Rs.2,08,444/- together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.260 of 2022 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Perambalur, within a period of six weeks from the date of receipt of copy of this judgment.



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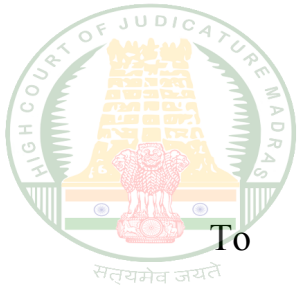
14. On such deposit, the claimant is permitted to withdraw Rs.1,08,444/- by making formal application before Tribunal. The remaining amount of Rs.1,00,000/- shall be deposited in anyone of the Nationalized Banks under a Fixed Deposit Scheme **for a period of three years** which shall be renewed periodically until he attains majority and being the Natural Guardian of the minor/claimant namely his mother-Aadhilakshmi is permitted to withdraw the interest accrued thereon **once in three months** and the same shall be used for the welfare of the minor claimant.

15. It is brought to the notice of this Court that the Tribunal ordered pay and recovery on the ground that the 1st respondent did not possess valid permit for the vehicle. The said finding is affirmed.

16. Accordingly, the Civil Miscellaneous Appeal is partly allowed. Consequently, the connected civil miscellaneous petition is closed. No costs.

09.04.2025

Index :Yes/No
Speaking order :Yes/No
Neutral Citation :Yes/No
dm



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To

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- 1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court, Perambalur.
- 2.The Section Officer,
VR Section, High Court,
Madras.



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S.SOUNTHAR, J.

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