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CMA.No.1199 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 30.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA No.1199 of 2025

P.V.S Madhava (Minor),

rep. by his father and next friend Mahendranath.

... Appellant

Vs.

1. Dhayalan

2. The Manager,

The United India Insurance Company Ltd.,

Motor Third Party Claim Cell, No.135,

Greams Road, Chennai 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 to enhance the compensation awarded by the VI Judge, Motor Accident Claims Tribunal, Court of Small Causes, Chennai in MCOP No.698 of 2017, dated 07.03.2024.

For appellants : Mr.K.Varadha Kamaraj

For Respondents : Dr.S.Paranthaman for 2nd respondent



CMA.No.1199 of 2025

WEB COPY

JUDGMENT

Not satisfied quantum of compensation awarded by the Tribunal, the claimant has come before this court by filing the present appeal.

2. According to the claimant, he suffered injury in a road accident that had occurred on 08.12.2016. It is the case of the claimant (minor), aged about 7 years that he was walking along the road in Kundrathur Natham Village in front of his house and at that point of time, a two wheeler belonging to the first respondent and insured with the second respondent was driven by its driver in a rash and negligent manner and dashed against the injured claimant. As a result of accident, he sustained fracture injury in his left leg and also sustained injuries all over the body. Therefore, the claimant filed a claim petition seeking compensation of Rs.6,00,000/-.

3. The first respondent, remained exparte before the Tribunal. The second respondent filed counter, however, thereafter, remained exparte.



CMA.No.1199 of 2025

WEB COPY

4. It is seen from the counter filed by the second respondent, insurer of the offending vehicle that the claim petition was opposed on the ground that the accident had occurred only due to the negligence on the part of the injured minor claimant.

5. The Tribunal, based on the evidence available on record, came to the conclusion that the accident had occurred only due to the negligence on the part of the driver of the two wheeler belonging to the first respondent and insured with the 2nd respondent. The compensation payable to the claimant was quantified by the Tribunal at Rs.1,94,651/-. Not satisfied with the quantum of compensation, the claimant has come before this court by filing the present appeal.

6. Both the counsel for the appellant and the 2nd respondent have not raised any arguments on the questions of negligence and liability and hence, the facts necessary to decide those issues are not considered in this appeal.



CMA.No.1199 of 2025

WEB COPY

7. The learned counsel for the appellant would submit that as per the law laid down by the *Apex Court in Master Mallikarjun Vs. Divisional Manager, National Insurance Co. Ltd., and another reported in 2013(2) TN MAC 338 (SC)*., a sum of Rs.1,00,000/- shall be awarded to the minor claimant towards disability of 5% suffered by him, however, the same has not been considered by the Tribunal in proper perspective. He further submits that the Tribunal should have awarded some amount under the head inconvenience caused to the parents of the minor claimant.

8. The learned counsel for the second respondent would submit that having regard to the nature of injury suffered by the claimant and the facts and circumstance of the case, the compensation awarded by the Tribunal is fair and reasonable and hence, it requires no interference by this court.

9. The Apex Court in *Mallikarjun Case*, cited supra, held that in case of disability suffered by the minor children, Rs.1,00,000/- can be granted as compensation, if the permanent disability is upto 10%. The



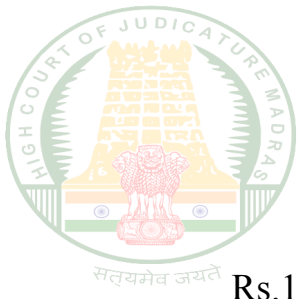
CMA.No.1199 of 2025

WEB COPY

relevant observation is extracted as follows.

" 12. Though it is difficult to have an accurate assessment of the compensation in the case of children suffering disability on account of a motor vehicle accident, having regard to the relevant factors, precedents and the approach of various High Courts, we are of the view that the appropriate compensation on all other heads in addition to the actual expenditure for treatment, attendant, etc., should be, if the disability is above 10% and upto 30% to the whole body, Rs.3 Lakhs; upto 60%, Rs.4 Lakhs; upto 90%, Rs.5 Lakhs and above 90%, it should be Rs.6 Lakhs. For permanent disability upto 10%, it should be Rs.1 Lakh, unless there are exceptional circumstances to take different yardstick. In the instant case, the disability is to the tune of 18%. Appellant had a longer period of hospitalization for about two months causing also inconvenience and loss of earning to the parents. "

10. In the case on hand, the claimant was aged 7 years at the time of accident. The disability suffered by the claimant was assessed at 5%, as per the Ex.C1 disability certificate. Therefore, following the law laid down by the Apex Court in the said ***Mallikarjun Case***, this court is inclined to award a sum of Rs.1,00,000/- towards the permanent disability suffered by the claimant. Accordingly, the compensation of Rs.20,000/- awarded under the head disability is enhanced to



CMA.No.1199 of 2025

Rs.1,00,000/-.

WEB COPY

11. The Tribunal granted compensation of Rs.1,09,651/- towards medical expenses, based on the medical bills produced by the claimant. Therefore the above compensation is confirmed.

12. As per the decision of the Apex Court in the said ***Mallikarjun Case***, apart from the said amount, the claimant is entitled to some amount for discomfort, inconvenience and loss of earning to the parents during the period of hospitalization. In the case on hand, the claimant suffered fracture injury and the medical board assessed the disability at 5%. A perusal of Ex.P2 discharge summary issued to the claimant would indicate that the claimant was in hospital nearly for five days from 08.12.2016 to 12.12.2016 and he underwent surgery for treatment of fracture. Taking into consideration the said fact, this court is inclined to grant a sum of Rs.20,000/- under the head inconvenience, discomfort and loss of earning to the parents of the claimant during hospitalization. In all, the claimant is entitled to Rs.2,29,651/-.



WEB COPY

13. Since a lump sum of Rs.1,00,000/- is awarded to the claimant towards permanent disability suffered by him, as per the decision of the Apex Court in *Mallikarjun case*, the compensation awarded by the Tribunal under various heads, viz., Transportation expenses, Extra nourishment, Attender charges, future inconvenience and pain and sufferings are set aside.

14. Accordingly, the revised compensation awarded by this Court is tabulated as under:

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Medical expenses	1,09,651	1,09,651	confirmed
2.	Transportation expenses	10,000	--	set aside
3.	Extra Nourishment	10,000	---	set aside
4.	Attender charges	15,000	--	set aside
5	Disability	20,000	1,00,000	enhanced
6	inconvenience, discomfort and loss of earning to the parents of the claimant during hospitalization.	--	20,000	granted
7	future inconvenience and pain and sufferings	30,000	--	set aside
	Total	1,94,651	2,29,651	enhanced by Rs.35,000/-

15. With the above modifications, this Civil Miscellaneous



CMA.No.1199 of 2025

WEB COPY

Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.1,94,651/- is hereby enhanced to **Rs.2,29,651/-** together with interest at 7.5% per annum from the date of claim petition till the date of deposit.

16. The **second respondent** is directed to deposit the compensation amount now determined by this Court to the credit of MCOP No.698 of 2017 on the file of VI Judge, MACT, Court of Small Causes, Chennai, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment.

17. On such deposit being made, the father of the appellant /claimant shall be permitted to withdraw a sum of Rs.2,29,651/- along with interest and costs, less the amount if any, already withdrawn, by making formal application before the Tribunal.

18. Since the appellant/ claimant is minor, the remaining



CMA.No.1199 of 2025

WEB COPY

compensation of Rs.1,00,000/- (Rupees one lakh) shall be deposited in Fixed Deposit in any one of the nationalized banks initially for a period of 3 years and the same shall be renewed periodically till the attainment of majority. The father of the claimant is entitled to withdraw the accrued interest thereon once in six months and the same shall be used for the welfare of the appellant/ minor claimant.

There shall be no order as to costs.

30.04.2025

Index : Yes/No
Speaking order : Yes/No
Neutral citation : Yes/No
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To

1. The VI Judge,
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.
2. The Section Officer,
V.R.Section, Madras High Court.



WEB COPY



CMA.No.1199 of 2025

S.SOUNTHAR, J.

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CMA No.1199 of 2025

30.04.2025