



CMA No.3061 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.3061 of 2021

Ms.R.Subasanthini (Minor)
(Minor rep. by her mother and
next friend R.Vijayalakshmi)

... Appellant

Vs.

1.S.Kandasamy
2.Reliance General Insurance Company Ltd.,
P.No.2054, Roy Towers,
II Avenue, Anna Nagar,
Chennai-40.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the judgement and decree dated 18.02.2020 passed in MACTOP.No.2215 of 2013 on the file of the Motor Accident Claims Tribunal and VI Court of Small Causes, Chennai.

For Appellant	: Ms.N.Lavanya
For R2	: Ms.C.Bhuvana Sundari
	R1-remained exparte before the Tribunal

JUDGMENT

The appellant has filed this appeal against the award passed in MACTOP.No.2215 of 2013 on the file of the Motor Accident Claims Tribunal and VI Court of Small Causes, Chennai, dated 18.02.2020.



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2. The brief facts of the case of the appellant/claimant are as follows:

On 03.03.2013 at about 18:30 hours, the appellant along with others travelling as occupants in an auto bearing Registration No. TN-05-T-4173, which was proceeding along the Somangalam–Kundrathur High Road, near the Poonthandalam bus stop. The auto was driven in a rash and negligent manner, and in an attempt to avoid a collision with an oncoming vehicle, the driver suddenly turned to the left and drove off the road. As a result, the said auto capsized, causing the appellant to sustain multiple grievous injuries.

3. The learned counsel for the appellant submitted that appellant was a minor who was travelling along with his parents in the auto at the time of the accident. There were four occupants in the auto, even though the seating capacity was only three. Therefore, the Tribunal fixed liability on the first respondent (owner of the vehicle) for the presence of the fourth person (the minor), citing violation of policy conditions. It was further submitted that the minor had sustained a fracture and suffered partial permanent disability. Though the medical evidence showed that



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the minor had sustained 25% partial disability, the Tribunal considered only 15% disability, awarding Rs.3,000 per percentage. Aggrieved by this, the claimant sought enhancement of the compensation.

4. The claimant had already given up any claim as against the first respondent (owner), and only the second respondent (insurance company) contested the case. On a perusal of the facts, the fixing of liability on the first respondent was found to be justifiable, due to the violation of the policy condition (overloading of passengers).

5. However, the Tribunal ought to have considered the 25% disability, as certified by the doctor. Therefore, this Court is inclined to enhance the assessed disability from 15% to 25%. In view of the year of the accident (2013), the rate of Rs.3,000 per percentage is also revised appropriately. A sum of Rs. 75,000/- (Rs. 3,000 x 25%) is awarded towards partial permanent disability. Consequently, the order passed by the Tribunal is modified and enhanced accordingly.



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6. The following tabular column sets out the amounts awarded by the Tribunal and the enhanced amounts awarded by this Court under various heads:

Sl. No	Heads	Amount (in Rs.) awarded by the Tribunal	Amount (in Rs.) awarded by the High Court
1.	Disability	45,000	75,000
2.	Pain and suffering	15,000	15,000
3.	Extra nourishment	10,000	10,000
4.	Damages to clothes	1,000	1,000
5.	Loss of amenities	10,000	10,000
	Total	Rs.81,000/-	Rs.1,11,000/-

Thus, the compensation awarded by the Tribunal is enhanced from Rs.81,000/- to Rs.1,11,000/-, which shall carry interest at the rate of 7.5% per annum.

7. In the result:

- i. The Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs.
- ii. The compensation awarded by the Tribunal is enhanced from Rs.81,000/- to Rs.1,11,000/-.



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

iv. The 1st respondent is directed to deposit the enhanced compensation amount, i.e., Rs.1,11,000/- (after deducting the amount already deposited), together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit, to the credit of MACTOP.No.2215 of 2013 on the file of the Motor Accident Claims Tribunal and VI Court of Small Causes, Chennai, within a period of eight weeks from the date of receipt or uploading of a copy of this order.

v. On such deposit being made, since the appellant, R.Subasanthini is a minor, the compensation awarded by this Court shall be deposited in any one of the Nationalized Banks under a Fixed Deposit Scheme, initially for a period of three years, and shall be renewed periodically until she attains majority. The Mother of the appellant, being the natural guardian, is permitted to withdraw the interest accrued thereon once in three months, and the same shall be utilized for the welfare of the minor appellant.



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vi. The appellant/claimant shall not be entitled to claim interest for the period of delay, if any, in filing this appeal.

12.06.2025

Index: Yes/No
Speaking/non Speaking order
Neutral Case citation: yes/no

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To

1. The Motor Accident Claims Tribunal and VI Court of Small Causes,
Chennai.

2.S.Kandasamy
No.8, Sathiya Vani Muthu Street,
Chennai - 18.

3. Reliance General Insurance Company Ltd.,
P.No.2054, Roy Towers,
II Avenue, Anna Nagar,
Chennai-40.

4. The Section Officer, V.R. Section,
High Court of Madras.



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