



C.M.A.No.365 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 10.03.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.M.A.No.365 of 2025

Tamizhmaran (minor)
Rep by his father Anbu as a natural
Guardian and next friend to the minor Petitioner,
No. 2/20, Bharathi Nagar,
Alapakkam,
Mandavoyal Post,
Tindivanam Taluk,
Villupuram District 604 303

... Appellant

VS.

- 1.Nithyananthan
- 2.United India Insurance Co. Limited,
No.134, Greams Road,
Chennai 600 006.
- 3.Chetan Kothari
- 4.National Insurance Company Limited,
No.751, Anna Salai,
Chennai 600 002.

... Respondents



C.M.A.No.365 of 2025

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award passed by the Motor Accidents Claim Tribunal, Chennai in the V Court of Small Causes, Chennai on 16.02.2023 in M.C.O.P.No.6057 of 2015.

For Appellants : M/s.Subhalaxmi Samanta
for M/s.Samanta and Ston

For R2 : Mr.S.Dhakshnamoorthy

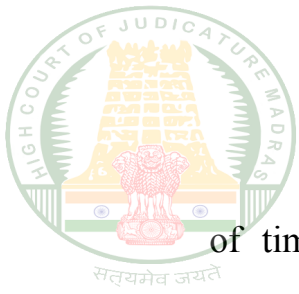
For R4 : M/s.N.B.Surekha

For R1 and R3 : Notice Dispensed With

J U D G M E N T

Not satisfied with the quantum of compensation awarded by the Motor Accidents Claim Tribunal, V Court of Small Causes, Chennai in M.C.O.P.No.6057 of 2015, dated 16.02.2023, the injured/claimant has come by way of this appeal.

2. It is the case of the injured/claimant that he suffered injury in a road accident that had taken place on 01.05.2015. When he was travelling along with his father, who was a driver of the car belonging to the 3rd respondent insured with the 4th respondent on 01.05.2015 towards Manivakkam from Madurandagam in south to north direction. At that point



C.M.A.No.365 of 2025

of time, the Van belonging to the 1st respondent insured with the 2nd respondent came in a rash and negligent manner in the opposite direction and dashed against the car. As a result of which, the claimant sustained injuries. Therefore, a claim petition was filed seeking compensation of Rs.15,00,000/-.

3. Before the Tribunal, the father of the claimant was examined as PW.1 and mother of the claimant was examined as PW.3. On the side of the claimant, 52 documents were marked as Exs.P1 to P52. On behalf of the respondents 2 and 4/Insurance Companies, no witnesses were examined and no documents were marked. The Disability Certificate issued by the Regional Medical Board to the claimant was marked as Ex.C4.

4. The Tribunal on appreciation of evidence available on record, came to the conclusion that primary negligence was on the part of the driver of the 1st respondent's vehicle and hence, fixed 70% negligence on the part of the driver of the van belongs to the 1st respondent. The Tribunal also fixed 30% contributory negligence on the part of the driver of the 3rd respondent's car. The negligence fixed by the Tribunal has become final and respondents



have not filed any cross appeal questioning the same. Not satisfied with the quantum of compensation awarded by the Tribunal at Rs.2,27,700/-, the injured/claimant has come before this Court by way of this appeal.

5. Since the learned counsel appearing for the appellant and learned counsel appearing for the respondents 2 and 4/Insurance Companies have not advanced any arguments on the question of negligence and liability aspects, the facts necessary for deciding those questions are not discussed in this judgment. Hence, the appeal is confined only to the question of quantum of compensation.

6. The learned counsel appearing for the appellant/claimant would submit that due to the accident the claimant suffered fracture in his left thigh and Medical Board issued Disability Certificate-Ex.C4 fixing the disability as 11%. The learned counsel further submits that the Tribunal committed an error in awarding only Rs.4,000/- per percentage of disability and the same requires enhancement. The learned counsel further submits that the amount awarded by the Tribunal under various other heads like pain and suffering, attender charges, loss of amenities etc., are very much on lower side.



WEB COPY 7. The learned counsel appearing for the respondents 2 and 4/Insurance Companies would submit that for the accident that had occurred in the year 2015, the amount of Rs.4,000/- awarded by the Tribunal is reasonable and the same requires no enhancement. The learned counsel further submits that having awarded a sum of Rs.30,000/- under the head pain and suffering, the Tribunal committed an error in awarding another Rs.30,000/- under the head mental agony and the same is liable to be set aside.

8. In the case of injury to minor children, it is very difficult to fix compensation payable to them based on the disability suffered by them. The Hon'ble Apex Court in ***Master Mallikarjun Vs. Divisional Manager, National Insurance Company Limited and another*** reported in **2013 (2) TNMAC 338**, issued certain guidelines for assessment of compensation in case of children suffering disability. The said observation reads as follows:-

“12. Though it is difficult to have an accurate assessment of the compensation in the case of children



WEB COPY



C.M.A.No.365 of 2025

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 towards treatment, attendant, etc., should be, if the disability is above 10 percent and upto 30 percent to the whole body, Rs.3,00,000; upto 60 percent, Rs.4,00,000/- upto 90 percent, Rs.5,00,000/- and above 90 percent, it should be Rs.6,00,000/-. For permanent disability upto 10 percent, it should be Rs.1,00,000/-, unless there are exceptional circumstances to take a different yardstick.”

9. In the case on hand, the Disability Certificate-Ex.C4 issued by Medical Board to the injured/claimant would indicate that the competent Medical Board assessed the disability suffered by the claimant at 11%. As per the law settled by the Apex Court in **Master Mallikarjun** case for the disability more than 10% upto 30%, the compensation payable is Rs.3,00,000/-. Therefore, this Court is inclined to fix lump sum of Rs.3,00,000/- as compensation following the ratio laid down in **Master Mallikarjun** case.



WEB.COM

10. In addition to the above said sum, the parents of the injured are entitled to Rs.20,000/- under the head loss of income and inconvenience during the treatment period.

11. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.3,20,000/- instead of 2,27,700/-. The respondents 2 and 4/Insurance Companies are directed to deposit the enhanced award amount of Rs.3,20,000/-, together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, after deducting the amount already deposited, if any, to the credit of M.C.O.P.No.5067 of 2015 on the file of the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai, within a period of four weeks from the date of receipt of copy of this judgment.

12. The respondents 2 and 4/Insurance Companies are liable to pay the said amount as per the proportion fixed by the Tribunal.

13. The above said award amount shall be invested in anyone of the Nationalized Banks under a Fixed Deposit Scheme **for a period of three**



C.M.A.No.365 of 2025

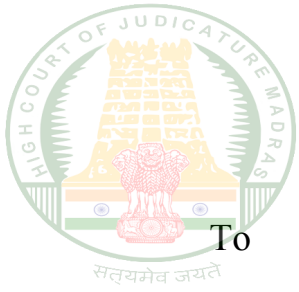
WEB.COM

years which shall be renewed periodically until minor claimant attains majority and the father, being the Natural Guardian of the minor claimant, is permitted to withdraw the interest accrued thereon in the said Fixed Deposit Account **once in three months** and the same shall be used for the welfare of the minor appellant/claimant.

14. With the above direction, the Civil Miscellaneous Appeal is partly allowed. It is made clear that the appellant/claimant is not entitled to claim any interest for the delay period of 292 days as per the order made in C.M.P.No.22213 of 2024 in C.M.A.SR.No.112133 of 2024, dated 30.01.2025. No costs.

10.03.2025
(2/2)

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



C.M.A.No.365 of 2025

To

WEB COPY

- 1.The Motor Accidents Claim Tribunal, Chennai,
V Court of Small Causes, Chennai.
- 2.United India Insurance Co. Limited,
No.134, Greams Road,
Chennai 600 006.
- 3.National Insurance Company Limited,
No.751, Anna Salai,
Chennai 600 002.
- 4.The Section Officer,
VR Section,
High Court, Madras.



WEB COPY



C.M.A.No.365 of 2025

S.SOUNTHAR, J.

dm

C.M.A.No.365 of 2025

10.03.2025
(2/2)