



CMA.Nos.3429 of 2024 and 315 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 10.02.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CMA.Nos.3429 of 2024 and 315 of 2025

CMA.Nos.3429 of 2024:

The Managing Director,
Tamil Nadu State Transport Corporation,
Vazhuthareddy, Villupuram,
Having Office at CMBT, Koyambedu,
Chennai – 600 107.

... Appellant

Vs.

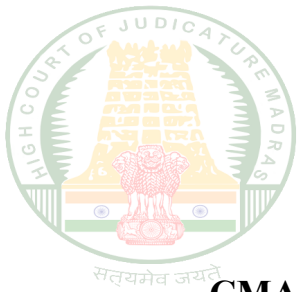
Minor.Miruthula
(Minor rep. by her Guardian and next
friend P.Shyamchander, S/o.S.Pavananthi)

... Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment dated 08.08.2023 made in MCOP.No.1414 of 2021 on the file of the Motor Accident Claims Tribunal, (Special Sub-Judge-II), Chennai.

For Appellant : Mr.T.Chandrasekaran

For Respondents : M/s.K.Premkumar



CMA.Nos.3429 of 2024 and 315 of 2025

CMA.Nos.315 of 2025:

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The Managing Director,
Tamil Nadu State Transport Corporation,
Vazhuthareddy, Villupuram,
Having Office at CMBT, Koyambedu,
Chennai – 600 107.

... Appellant

Vs.

Minor.Aryalushanth
(Minor rep. by her Guardian and next
friend P.Shyamchander, S/o.S.Pavananthi)

... Respondent

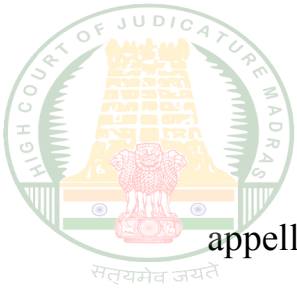
PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment dated 08.08.2023 made in MCOP.No.1415 of 2021 on the file of the Motor Accident Claims Tribunal, (Special Sub-Judge-II), Small Causes Court, Chennai.

For Appellant : Mr.T.Chandrasekaran

For Respondents : M/s.K.Premkumar

COMMON JUDGMENT

Questioning the quantum of compensation awarded by the Motor Accident Claims Tribunal (Special Sub-Judge-II), Chennai in MCOP.Nos.1415 and 1414 of 2021, dated 08.08.2023, the



CMA.Nos.3429 of 2024 and 315 of 2025

appellant/Transport Corporation has come by way of these Civil

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2. The claimants in CMA.Nos.315 of 2025 and 3429 of 2024 are minor children aged about 12 years and 6 years respectively. On 14.02.2021, they travelled as passengers in Maruthi Alto Car along with their family members. The accident occurred due to the rash and negligence driving of bus belonging to the appellant corporation. It is stated that the parents of the claimants died in the accident and both the claimants received grievous injuries and hence both these petitions have been filed seeking compensation for the injury suffered by them. Since no arguments were advanced by both the counsel for appellant as well as respondents, on the question of negligence and liability, necessary facts leading to the fixation of negligence and liability by the Tribunal are not discussed in this judgment.

3. Heard the learned counsel for appellant/Transport Corporation and the learned counsel for respondents/claimants.

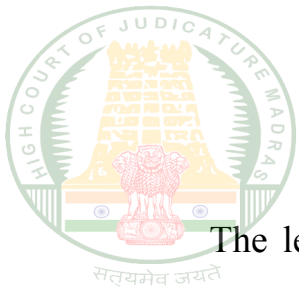


4. The learned counsel appearing for the appellant/Transport

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Corporation would submit that in CMA.No.315 of 2025, the Tribunal fixed 50% disability for the injury suffered by the victim without any basis especially when the victim has not undergone any examination by the Medical Board. It is submitted that the disability of 50% fixed by the Tribunal is very much on higher side. It is also stated by the learned counsel that Rs.1,50,000/- awarded under the head pain and suffering is very much on higher side. He also submitted that the claimants are not entitled to any amount under the head mental agony separately when they were awarded substantial amount for pain and suffering. As far as, CMA.No.3429 of 2024, learned counsel submitted that disability of 30% awarded by the Tribunal is on the higher side. He further submitted that the amount of Rs.1,00,000/- towards pain and suffering and Rs.2,00,000/- awarded under shock and mental agony are not sustainable in law.

5. The learned counsel appearing for the respondents would submit that Doctor issued the disability certificate and based on his evidence and the certificate issued by him, the Tribunal fixed the disability percentage and therefore the same requires no interference by this Court.



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The learned counsel further submitted that due to the accident, the minor children lost both of their parents and therefore, the Tribunal is very much justified in awarding a lumpsum under the head of shock and mental agony. He also submitted that having regard to the ordeal undergone by the children, the amount of Rs.1,50,000/- and Rs.1,00,000/- respectively awarded towards pain and suffering for both the claimants may not be said to be on the higher side.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. In CMA.No.315 of 2025, PW.3-Doctor issued Ex.P-19 disability certificate. A perusal of the same would suggest that the claimant suffered a fracture in the right femur bone and dislocation of right hip. He also suffered fracture in the right Zygomatic Complex and Orbital Floor and irregular lacerations of right face. It is clearly mentioned in the disability certificate that the flexion of his hip joint is reduced by 30 degree and he has got difficulty in climbing stairs, standing on affected leg, squatting on floor, sitting cross legged etc. It is also stated that there are



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laceration scar on the face, PW.3 issued disability certificate fixing the disability at 55%. However, the Tribunal reduced it to 50% and granted compensation by applying the law laid down by the Apex Court in *Mallikarjun case*. Even assuming the disability percentage fixed by the Doctor is reduced as 35%, still as per the law laid down in the *Mallikarjun case* reported in 2013(2) TNMAC 338 (SC), the victim is entitled to a sum of Rs.4,00,000/- under the head of partial disability as fixed by the Tribunal. Therefore, the said findings by the Tribunal need not be interfered with.

8. It is seen from Ex.P2 and P11 discharge summary, the victim was in hospital from 14.02.2021 to 20.02.2021 and 06.04.2022 to 08.04.2022, therefore, the victim was treated as inpatient for nearly 10 days. A sum of Rs.1,50,000/- awarded by the Tribunal under the head pain and suffering is on the higher side and the same is reduced to 50,000/-. When compensation is awarded under the head pain and suffering, the claimants are not entitled to compensation under the head shock and mental agony. Therefore, the sum of Rs.2,00,000/- awarded under the head of shock and mental agony is set aside. The amount awarded by the Tribunal under the head of future medical expenses is based on estimation bill under



Ex.P3, therefore, the same is confirmed. As per Ex.P18, Doctor pointed out various disabilities suffered by the victim. As the victim is minor boy aged about 12 years, he is entitled to a lumpsum under the head of loss of marital prospects. This Court feels a sum of Rs.2,00,000/- under the head of loss of marital prospects would be proper by taking into consideration, the disability mentioned in the disability certificate.

9. In view of the discussions made earlier, the award passed by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Part disability	4,00,000/-	4,00,000/-
2.	Pain and Suffering	1,50,000/-	50,000/-
3.	Extra Nourishment	15,000/-	15,000/-
4.	Transportation	5,000/-	5,000/-
5.	Attendant Charges	5,000/-	5,000/-
6.	Medical Expenses	1,47,500/-	1,47,500/-
7.	Loss of Amenities	25,000/-	25,000/-
8.	Shock and Mental Agony	2,00,000/-	-
9.	Future Medical Expenses	2,00,000/-	2,00,000/-
10.	Loss of marital prospects	-	2,00,000/-
	Total	11,47,500/-	10,47,500/-



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10. In view of the discussions made earlier, the compensation awarded by the Tribunal is reduced from Rs.11,47,500 to Rs.10,47,500/-. Therefore, CMA.No.315 of 2025 filed by the appellant Corporation is partly allowed.

11. In CMA.No.3429 of 2024, PW.3-Doctor issued Ex.P18-discharge summary fixing the permanent disability at 35%.

12. A perusal of the disability certificate would indicate that the victim suffered fracture in distal radius and ulna and therefore, underwent surgery for the same. It is also stated that victim suffered laceration of face and scalp, scar on face, difficulty in mastication, pain and tenderness in upper jaw during chewing, post head injury, head ache and vertigo. The Tribunal reduced the disability fixed by the Doctor from 35% to 30%. Even assuming the disability fixed by the Doctor is reduced to 11%, as per law laid down in Mallikarjun case, the victim is entitled to lumpsum of of Rs.3,00,000/- and hence the said amount awarded under the said head is confirmed.



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13. It is seen from Ex.P13-discharge summary, the victim was in hospital from 14.02.2021 to 17.02.2021, roughly four days. Therefore, a sum of Rs.1,00,000/- awarded under the head of pain and suffering is reduced to Rs.50,000/-. The Tribunal committed an error in awarding a sum of Rs.2,00,000/- under the head shock and mental agony separately. The victim was granted compensation under the head of pain and suffering and therefore the victim is not entitled to compensation under the head of shock and mental agony separately. Therefore, the award of Rs.2,00,000/- under the said head is set aside. The victim is a girl child aged about 6 years. In the disability certificate, the Doctor mentioned about scar on her face and difficulty in mastication, pain and tenderness in upper jaw during chewing, post head injury, head ache and vertigo. It is also stated that there is complaint of head ache and vertigo and the disability certificate also mentions about the reduction of flexibility of elbow joint by 30 degree. Taking into consideration the disability mentioned in the certificate issued by Doctor, this Court feels that the victim is entitled to a sum of Rs.1,50,000/- under the head of loss of marital prospects. Therefore, the compensation awarded under the various heads are modified as follows:



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S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Disability	3,00,000/-	3,00,000/-
2.	Pain and Suffering	1,00,000/-	50,000/-
3.	Extra Nourishment	15,000/-	15,000/-
4.	Transportation	5,000/-	5,000/-
5.	Attendant Charges	4,000/-	4,000/-
6.	Medical Expenses	21,500/-	21,500/-
7.	Loss of Amenities	20,000/-	20,000/-
8.	Shock and Mental Agony	2,00,000/-	-
9.	Loss of Marital prospects	-	1,50,000
	Total	6,65,500/-	5,65,500/-

In view of the discussion made earlier, the compensation awarded by the Tribunal is reduced from Rs.6,65,500/- to Rs.5,65,500/-.

14. The appellant/Corporation is directed to deposit the amount as ordered by this Court before the Tribunal within a period of six weeks together with interest. The amount deposited by the Corporation shall be deposited in any of the Nationalized bank initially for a period of three years and the same shall be renewed periodically till the attainment of



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majority by minors. The guardian of the minor victims are permitted to withdraw the accrued interest once in six months by making proper application before the Tribunal.

15. Accordingly, these Civil Miscellaneous Appeals are partly allowed.

10.02.2025

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

1.The Motor Accident Claims Tribunal
(Special Sub-Judge-II), Chennai.

2.The Section Officer

VR Section,

High Court, Madras.



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S.SOUNTHAR, J.

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