



C.M.A.(MD) No.988 of 2024

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 31.01.2025**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

C.M.A.(MD)No.988 of 2024  
and  
C.M.P.(MD)No.10374 of 2024

M/s.MAGMA HDI General Insurance Company Limited,  
Through its Branch Manager,  
Naveen's Presidium 3<sup>rd</sup> Floor,  
New No.17/19, "B" Block, 3-A,  
Nelson Manickam Road,  
Chennai – 29. ... Appellant/Respondent-2

vs.

1.A.Veera Pandian  
2.V.Manjula  
3.V.Minor Harini  
(Minor represented by by her father/R1)  
... Respondents 1-3/Petitioners 1-3  
4.D.Ramachandran ... Respondent-4/Respondent-1

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against judgment and decree dated 09.08.2023 made in M.C.O.P.No.285 of 2021 passed by the Motor Accidents Claims Tribunal cum Special District Court for MCOP



C.M.A.(MD) No.988 of 2024

Cases, Thanjavur

For appellant : Mr.N.Shyllappa Kalyan  
For Respondents  
For R1 to R3 : Mr.N.Tamilmani  
For R4 : No appearance

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### **J U D G M E N T**

This Civil Miscellaneous Appeal has been preferred by the Insurance Company/second respondent against the award dated 09.08.2023 made in M.C.O.P.No.285 of 2021 passed by the Special District Court for MCOP Cases, Thanjore, for a change.

2. Despite the receipt of notice, the fourth respondent neither appeared nor entered appearance through his counsel.

3. Heard the arguments of the learned counsel for the appellant and the learned counsel for the respondents 1 to 3. Perused relevant records.

4. The parents and sister of the deceased minor Hariharan filed a claim petition before the Tribunal, under Section 166 of



C.M.A.(MD) No.988 of 2024

Motor Vehicles Act, 1988, claiming compensation of Rs.50,00,000/-  
for the death of minor Hariharan, on account of the road traffic  
accident that occurred on 08.10.2020.

5. Upon consideration, the Tribunal passed an award for a  
sum of Rs.16.53.000/-. The amount ordered under various heads  
are given hereunder:

| <b>Sl.<br/>No.</b> | <b>Description</b>     | <b>Amount awarded<br/>by the Tribunal</b> |
|--------------------|------------------------|-------------------------------------------|
| 1                  | For loss of dependency | Rs.15,00,000/-                            |
| 2                  | For loss of consortium | Rs. 1,20,000/-                            |
| 3                  | For funeral expenses   | Rs. 15,000/-                              |
| 4                  | For loss of estate     | Rs. 18,000/-                              |
|                    | Total                  | Rs.16,53,000/-                            |

6. The learned counsel for the appellant would strenuously  
argue that for the death of 11 year old minor boy, the Tribunal has  
fixed the annual income at Rs.1,00,000/-, which is on the higher  
side. To buttress his arguments, reliance has been placed on the  
following judgments:

**1.Meena Devi Vs. Nunu chand Mahta @ Nemachand**



C.M.A.(MD) No.988 of 2024

**Mahta and others in S.L.P.(Civil)No.5345 of 2019;**

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**2.Kishan Gopal and another vs. Lala and others in Civil  
Appeal No.7137 of 2013 (SC),**

7. In **Meena Devi's** case (cited supra), a child Bankee Bihari, aged about 12 years on the date of accident, that is, on 29.07.2003, while playing in front of his house, was dashed by the Commander Jeep bearing registration No.JH-11-A-6894 and died on the way while being taken to the hospital in Dhanbad. On claim petition, the Motor Accidents Claims Tribunal, Giridih granted compensation to the tune of Rs.1,50,000/- in lumpsum. On assailing the inadequacy of such award by filing C.M.A.(MD)No.16 of 2013, the High Court of Jharkhand at Ranchi enhanced the amount of compensation to Rs.2,00,000/- equivalent to the value of the claim made in the claim petition. The Hon'ble Supreme Court, after analysing the judgment in **Taff Vale Rly vs. Jankins reported in 1913 AC 1**, granted compensation of Rs.5,00,000/-.

8. It is the evidence of P.W.1/Veerapandian that his son was



C.M.A.(MD) No.988 of 2024

aged about 12 years at the relevant point of time. Had he been alive, he would have supported the family in a better way.

9. In consideration of the above said details, this Court deems it fit to fix the notional income of the deceased minor boy as Rs.30,000/-. As per the age of the parents, for calculating the loss of dependency, the multiplier to be adopted is 15 'M'. Hence, for loss of dependency, Rs.4,50,000/- (Rs.30,000/- x 15) is granted. As regards the other conventional heads, an amount of Rs.50,000/- is granted. In all, a sum of Rs.5,00,000/- is granted.

10. In the result,

(i) The Civil Miscellaneous Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(ii) The compensation awarded by the Tribunal is reduced from Rs.16,53,000/- to Rs.5,00,000/-.

(iii) The appellant/Insurance Company is directed to deposit the compensation amount of Rs.5,00,000/- (less the amount



C.M.A.(MD) No.988 of 2024

already deposited if any) with interest at 7.5% p.a. from the date of filing of the claim petition till the date of realisation to the credit of M.C.O.P.No.285 of 2021 on the file of Motor Accidents Claims Tribunal, Special District Court for MCOP Cases, Thanjavur, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimants/respondents 1 and 2 are permitted to withdraw the compensation amount as per the apportionment made by the Tribunal, with interest, after adjusting the amount, if any already withdrawn by filing necessary application before the Tribunal.

(v) The share of the minor/third respondent shall be deposited in any one of the nationalized bank till the minor attains majority and the first respondent, father of the minor Mr.A.Veera Pandian is permitted to withdraw interest once in three months from the said amount.

(vi) The appellant/Insurance Company is permitted to



C.M.A.(MD) No.988 of 2024

withdraw the excess award amount deposited by them if any, by  
filing necessary application before the Tribunal.

**31.01.2025**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
apd

To

1.The Special District Judge,  
The Motor Accidents Claims Tribunal,  
Special District Court for MCOP Cases, Thanjavur,

2.The Section Officer,  
V.R. Section,  
Madurai Bench of Madras High Court,  
Madurai.



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C.M.A.(MD) No.988 of 2024

**R.KALAIMATHI,J**

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Pre-delivery order made in  
**C.M.A.(MD) No.988 of 2024**

**31.01.2025**