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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 1141 of 2024

CNR: {HCMA010722992024}

Case QR

Minor Tharani ..Appellant(s)
Rep. by Father and Natural Guardian
R.Ammavasi,

Vs

1. V.Shivaji
   S/o. Varadarajan,

2. G.Mathiazhagan
   S/o. Ganesan,

3. The Branch Manager
   IFFCO TOKIO General Insurance Company Ltd,
   No. 19/1, Kingston Park , 11th Floor, (Opp.
   Aruna Theatre), Ramalingam Nagar, Puthur
   Road, Woraiyur, Tiruchirappalli-3.

..Respondent(s)

Prayer :- This Civil Miscellaneous Appeal filed under Section 173 of M.V. Act to enhance the award passed in MCOP No. 95 of 2017 by The Motor Accident Claims Tribunal (CJM Court), Nagapattinam dated 10.01.2024 and allow the CMA as prayed in the MCOP No. 95 of 2017 and pass such further or other orders.

For Appellant(s): Mr.P.Chandrasekar

For Respondent(s): Mr. B. Sivakolappan, for R3

R1 & R2 – Dispense with.

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JUDGMENT

The unsuccessful claimant has preferred the present Civil Miscellaneous Appeal seeking enhancement of compensation awarded by the Motor Vehicle Accident Claims Tribunal / Chief Judicial Magistrate, Nagapattinam, vide award dated 10.01.2024, made in M.C.O.P.No.95 of 2017.

2. The claim petition has been filed by the father of the minor injured under Sections 140 & 166 of the Motor Vehicles Act, seeking compensation for the injuries sustained by his minor daughter in the road accident.

3. According to the claimant, on 10.01.2015, at about 5.00 p.m., when the minor Tharani was trying to cross the road to reach the opposite house of one Manohar, a motorcycle bearing Registration No.TN-51-AB-4214, ridden by its rider in a rash and negligent manner, dashed against her. Due to the accident, the minor Tharani sustained multiple injuries all over her body.

4. The first and second respondents were called absent and set exparte before the Tribunal.

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5. The third respondent/Insurance Company filed a counter statement denying the manner of accident. It was contended that the third respondent was not the insurer of the Hero Honda Splendor motorcycle bearing Registration No.TN-51 AB-4214 on the date of accident and that there was no contract of insurance in respect of the said vehicle. It was further contended that the injured claimant was responsible for the accident, as she suddenly tried to cross the road without noticing the motorcycle coming from west to east, despite the rider sounding the horn. Thus, the minor herself was the cause of the accident.

6. Before the Tribunal, on behalf of the claimant, the father of the injured minor was examined as P.W.1. One eye witnesses, Anthoosh, was examined as P.W.2, and Ex.P.1 to Ex.P.19 were marked. The Disability Certificate issued by the Medical Board was marked as Ex.C.1. On the side of the third respondent/Insurance Company, no witness was examined, no documents was marked.

7. Upon appreciation of evidence adduced on either side, the Tribunal came to the conclusion that the accident occurred due to the rash and negligent riding of the offending vehicle. It was also found that the offending vehicle belonged to the first respondent and was duly insured with the third respondent.

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The injured minor was examined by the Medical Board, which assessed her disability at 30% and issued the Disability Certificate, Ex.C.1. By applying the decision of this Hon'ble Court in ***M.Chinnathambi /V./ S.Deepa and another*** reported in ***2020(1)TN MAC 617,*** the Tribunal fixed a sum of Rs.4000/- for each percentage of disability and accordingly awarded a sum of Rs.1,20,000/- (Rs.4000 x 30) towards Permanent Disability.

8. The Tribunal awarded compensation under various heads as follows:

Heads of Compensation	**Amount awarded by the Tribunal (Rs.)**
Partial Permanent Disability	1,20,000/-
Medical Expenses	16,070/-
Loss of Income	21,000/-
Pain and Suffering	40,000/-
Extra Nourishment	15,000/-
Transportation Charges	5,000/-
Attendant charges	18,000/-
Mental Agony	5,000/-
TOTAL	**2,40,070/-**

Aggrieved over the same, the claimant has preferred the present appeal seeking enhancement of compensation.

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9. The learned counsel appearing for the appellant/claimant would submit that the Tribunal had failed to take into consideration the fact that the injured was a minor child aged about three years at the time of accident. The compensation awarded by the Tribunal under the head of Pain and Suffering is very low. The suffering undergone by a minor child aged three years is highly invaluable. The compensation awarded under the heads of Extra-Nourishment, Transportation Charges, Attendant Charges, is also very meagre and the same are to be enhanced.

10. Per contra, the learned counsel appearing for the third respondent/Insurance Company would submit that upon proper appreciation of the evidence and considering the nature of the injuries sustained by the claimant, the disability assessed by the Medical board and the number of days of inpatient treatment, the Tribunal has passed a reasoned and proper award, which does not warrant any interference.

11. This Court has considered the submissions made on either side and perused the materials available on record.

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12. There is no dispute with regard to the finding of negligence on the part of the rider of the offending vehicle. The only grievance of the appellant is that the compensation awarded by the Tribunal under the heads of Pain and Suffering, Extra Nourishment, and Attendant Charges, appears to be meagre and the same has to be enhanced.

13. It is not in dispute that at the time of accident, the minor was aged three years. She was admitted to the Government Hospitals at Nagapattinam and Thanjavur and underwent treatment as inpatient from 10.01.2015 to 22.01.2015 for about 13 days. It is also relevant to note that on 11.01.2015, she underwent surgery. Subsequently, she was admitted as an inpatient at Aravind Hospital, Madurai from 16.04.2019 to 18.04.2019. On 17.04.2019, she underwent surgery.

14. P.W.1, the father of the minor, deposed that his daughter sustained a bleeding wound on the left side of her forehead, on the back side of her head and on her jaw. The injured minor was examined by the Medical Board for assessment of disability. The Medical Board has assessed her disability and issued Ex.C.1 Disability Certificate. A perusal of Ex.C.1 reveals that she suffered with 30% neuro disability.

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15. While applying the ratio laid down by this Court in ***M.Chinnathambi /V./ S.Deepa and another*** reported in ***2020(1)TN MAC 617,*** the Tribunal fixed a sum of Rs.4,000/- per percentage of disability and accordingly awarded a sum of Rs.1,20,000/-(Rs.4000 x 30) towards Partial Permanent Disability. The said amount appears to be reasonable in toto.

16. The Tribunal has awarded compensation to the parents of the injured minor under the head of Loss of Income for a period of three months, fixing the notional monthly income of the parents at Rs.7000/-. However, considering the fact that the accident took place on 10.01.2015 and that the minor was aged three years at the time of accident, the fixation of Rs.7000/- per month towards the notional income of the parent appears to be meagre. This Court is inclined to fix a sum of Rs.10,000/- per month as notional income of the parent of the injured minor.

17. Further, considering the fact that the injured minor was admitted as an inpatient at Government Hospitals at Nagapattinam and Thanjavur for about 13 days and underwent surgery on 11.01.2015, and she was subsequently admitted as an inpatient at Aravind Hospital, Madurai from 16.04.2019 to 18.04.2019 for three days and underwent surgery on 17.04.2019, the compensation awarded

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for three months towards loss of income appears to be meagre. The parent of the injured minor would have necessarily spent considerable time taking care of the child during the period of treatment and recovery. In view of the above, this Court fixes the period of six months and awards a sum of Rs.60,000/- (Rs.10,000 x6) towards Loss of Income.

18. The Tribunal awarded a sum of Rs.40,000/- under the head of Pain and Suffering. Considering the fact that the minor female child was aged about three years at the time of the accident and the nature of the injuries sustained by her, this Court is inclined to enhance the compensation under the said head to Rs.60,000/-.

19. The Tribunal has awarded a sum of Rs.15,000/- under the head of Extra-Nourishment, which appears to be meagre. Hence, this Court is inclined to enhance the same to Rs.40,000/- towards Extra Nourishment.

20. Similarly, the compensation of Rs.5,000/- awarded by the Tribunal under the head of Transportation Expenses also appears to be meagre. Hence, this Court is inclined to enhance the same to Rs.10,000/- towards Transportation Expenses.

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21. The compensation awarded by the Tribunal under the other heads appears to be reasonable and proper. Thus, the compensation awarded by the Tribunal is modified as follows:

Heads of Compensation	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Partial Permanent Disability	1,20,000/-	1,20,000/-
Medical Expenses	16,070/-	16,070/-
Loss of Income	21,000/-	60,000 /- (10,000 x 6)
Pain and Sufferings	40,000/-	60,000 /-
Extra Nourishment	15,000/-	40,000 /-
Transportation Charges	5,000/-	10,000 /-
Attendant charges	18,000/-	18,000 /-
Mental Agony	5,000/-	5,000 /-
TOTAL	**2,40,070/-**	**3,29,070**

22. In the result, this Civil Miscellaneous Appeal is partly allowed;

(i) the award dated 10.01.2024 passed in M.C.O.P.No.95 of 2017, on the file of the Motor Accident Claims Tribunal / Chief Judicial Magistrate Court, Nagapattinam, is modified to the effect that the claimant is entitled to the enhanced compensation of Rs.3,29,070/-(Rupees Three Lakhs Twenty Nine Thousand and Seventy only), together with interest at the rate of 7.5% per

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annum, excluding the default period, if any, from the date of filing of the claim petition till the date of deposit.

(ii) the third respondent/Insurance Company is directed to deposit the enhanced compensation, less the amount, if any, already deposited, within a period of fifteen (15) days from the date of receipt of a copy of this order.

(iii) Since the appellant is a minor, the third respondent/Insurance Company is directed to deposit the compensation amount in any one of the Nationalized Bank in an interest-bearing fixed deposit, untill the minor appellant attains majority.

(iv) the father, being the natural guardian of the minor, is permitted to withdraw the interest accrued once in six months for the welfare and benefit of the minor appellant.

04-11-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MRP

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To

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   Nagapattinam.

2. The Branch Manager
   IFFCO TOKIO General Insurance Company Ltd, No. 19/1, Kingston Park , 11th Floor, (Opp. Aruna Theatre), Ramalingam Nagar, Puthur Road, Woraiyur, Tiruchirappalli-3.

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M.JOTHIRAMAN, J.

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