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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-11-2026

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

CMA No. 1126 of 2026

CNR:{HCMA012598202025}

AND

CMP NO. 11159 OF 2026

Case QR

Minor Srinithi,
D/o.Ayyappan,
Pumbuthottam Village,
Kallakurichi Taluk,
Villupuram.
(Minor rep by her father Ayyappan,
S/o.Jayaraman as naturan guardian)

..Appellant(s)

Vs

1. Muthaiyan,
   S/o.Annamalai,
   Middle Street,
   Sellampattu Vilage,
   Kallakurichi Taluk.
2. Royal Sundaram General Insurance Co. Ltd.,
   No.186/5, 3rd Floor, Royal Towers,
   Meyyanur, Salem 636 004.

..Respondent(s)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to modify the order passed in M.C.O.P.No.423 of 2016, dated 01.02.2021 on the file of the Motor Accident Claims Tribunal (III Additional District Court), Villupuram at Kallakurichi, by enhancing the compensation from Rs.17,54,478/- to Rs.30,00,000/- and thus render justice.

For Appellant(s): Mr.A.E.Ravichandran

For Respondent(s): Mr.S.Srinivasan, FOR R2

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JUDGMENT

Unsuccessful claimant has preferred this appeal seeking enhancement of compensation, vide award dated 01.02.2021 in MCOP.No.423 of 2016 on the file of the Motor Accident Claims Tribunal (III Additional District Court), Villupuram @ Kallakurichi.

2. Claim Petition has been filed by the father of the injured under Section 166 of the Motor Vehicles Act, 1988 seeking compensation for the injury sustained by the minor daughter / Srinithi, in a road accident. According to the claimant, on 16.10.2016 at about 14.00 hours, while the minor child was standing with her grandmother Pachiayammal at Pambuthottam bus stop, at that time, the 1st respondent's vehicle bearing Reg.No.TN 15 Y 4334, driven by its driver in a rash and negligent manner, hit behind the minor child and she sustained grievous head and multiple injuries all over her body. The 1st respondent, being the owner of the offending vehicle and the 2nd respondent being the insurer of the offending vehicle are liable to pay compensation to the claimant.

3. The 1st respondent has filed counter statement denying the manner of accident and stated that the accident occurred due to the rash and negligent act of the minor child and therefore, the 1st respondent is not responsible for the accident.

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4. The 2nd respondent / Insurance Company has filed counter statement wherein they denied the manner of accident and stated that the driver of the 1st respondent vehicle drove the vehicle in a proper manner in normal speed by adhering the traffic rules and at the time of accident, the minor child suddenly crossed the soil road to tar road in playing mode and the accident occurred only due to the reckless act of the minor child and therefore, the 2nd respondent / Insurance Company is not liable to indemnify the 1st respondent.

5. Before the Tribunal, on behalf of the claimant, the father of the injured claimant examined himself as PW1 and one Panchaiyammal, who is an eye witness was examined as PW2 and Exs.P1 to P13 were marked. On behalf of the respondents, neither any witness was examined nor any document was marked. The Disability Certificate issued by the Medical Board in respect of the injured claimant was examined as Ex.C1.

6. Upon appreciation of evidence adduced on either side, the Tribunal concludes that the accident occurred due to the rash and negligent driving of the driver of the offending vehicle. The 1st respondent's vehicle was duly insured with the 2nd respondent therein and therefore, the 2nd respondent / Insurance Company is liable to indemnify the act of the 1st respondent. The Tribunal, considering the nature of injuries sustained by the injured minor child, number of days the injured has taken treatment as in-patient and considering the

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disability assessed by the Medical Board at 60%, fixed Rs.3,500/- as the monthly income of the deceased and adopted Multiplier method for awarding compensation under Future Loss of Income. The Tribunal has also awarded compensation under various other heads as hereunder:

Heads of Compensation	**Amount awarded by the Tribunal (Rs.)**
Compensation for Future Loss of Income [3500 x 12 x 18 x 60/100]	4,53,600
Pain and Sufferings	3,00,000
Agony caused to her parents	1,00,000
Loss of Marital Prospects	3,00,000
Transport Charges	30,000
Loss of Future Amenities	1,00,000
Extra Nourishment	50,000
Attender Charges [76 days x 125]	9,500
Medical Bills	4,11,378
TOTAL	**17,54,478**

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

7. The claimant has also filed CMP.No.11159 of 2026 under Order XLI Rule 27 CPC, to receive the additional documents, namely Discharge Summaries, five in number dated 30.01.2021, 04.05.2022, 03.05.2024, 26.09.2024 and 25.09.2025 and the medical bills / pharmacy bills, 71 in number, along with a list containing their details, as documentary evidence. In the affidavit filed in support of the said petition, it is stated that the daughter of

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the claimant suffered a major crush injury in her left leg with circumferential skin and soft tissue loss of entire left leg and she also suffered fracture on her head in left frontal bone and she was given treatment at several times on various dates as found in Ex.P3 and P12- Discharge Summaries and even then, she could not walk without the help of attenders. To substantiate the same, the claimant has filed the discharge summaries and medical / pharmacy bills along with the list containing their details and seeks to receive those documents as additional documents. It is further stated in the said petition that those documents are necessary to prove that the claimant has incurred huge sums towards continuous treatment of her daughter and for claiming compensation under the head future medical expenses and if the aforesaid additional documentary evidence is not allowed to be received and considered, he will be put to irreparable loss and hardship.

8. The learned counsel appearing for the appellant / claimant would submit that the Tribunal failed to consider that the injured suffered a major crush injury in her left leg with circumferential skin and soft tissue loss of entire left leg and she also suffered fracture on her head in left frontal bone and the Wound Certificate – Ex.P2, various discharge summaries and photographs in Ex.P9 and P11 shows that the minor injured underwent several surgeries and corrective procedures. The Tribunal failed to consider that the memo of bills filed under the claimant in Ex.P5 shows that a total sum of Rs.11,39,998.64 was

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spent by the appellant towards medical expenditure, however the Tribunal went wrong in awarding a sum of Rs.4,11,378/- towards medical bills. The Tribunal failed to consider the fact that the injured minor child took treatment at various hospitals as inpatient for about 76 days. The Tribunal erred in fixing a sum of Rs.3,500/- as the monthly income of the minor child and ought to have fixed at least Rs.15,000/- p.m. The compensation awarded by the Tribunal under other heads, namely Pain and Sufferings, Agony, Marital Prospects, Transportation Charges, Extra Nourishment and Attender Charges are also meagre and the same has to be enhanced. To strengthen his contentions, the learned counsel has relied upon the decisions of the Hon'ble Apex Court in ***Kajal v. Jagdish Chand & Ors. [(2020) 4 SCC 413] and in Hitesh Nagjibhai Patel v. Bababhai Nagjibhai Rabari & Anr. [2025 LiveLaw (SC) 871]***.

9. *Per contra*, learned counsel appearing for the 2nd respondent / Insurance Company would submit that considering the nature of injuries sustained by the claimant and the number of days he has taken treatment as in-patient, the Tribunal has rightly fixed a sum of Rs.3,500/- per month as monthly notional income and adopted multiplier method for awarded compensation under Future Loss of Income, which does not require any interference.

10. This Court considered the submissions made on either side and perused the entire records carefully.

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11. There is no dispute with regard to the manner of accident and negligence fixed on the driver of the offending vehicle. It is seen from the records that the Tribunal in para 21 has pointed out that the claimant has not deducted the advance amount of Rs.1,50,000/- from the total amount and also the original bills of Serial Nos.118 and 119 were not produced and hence, the claimant is not entitled to get those amounts of Rs.4,69,670 + Rs.1,50,000 = Rs.6,19,670. It is also seen from the records that the injured minor child was given treatment in various hospital for about 76 days and the same is clearly reflected in Ex.P5-Medical Bills. The age of the injured as mentioned in the claim petition was 4 years and in Ex.P2-Discharge Summary, her age was mentioned as 5 years, however the Tribunal has fixed the age of the injured as 4 years.

12. According to the claimant, the injured sustained ankle spanning external fixation in situ, raw area extending from 10 cm above knee upto heel in medical aspect, contusion forehead and the aforesaid injuries has been mentioned in Ex.C1-Disability Certificate issued by the Medical Board. A perusal of Ex.C1- Disability Certificate shows that the injured minor disability was assessed 60% disability.

13. A perusal of Ex.P2-Discharge Summary reveals the injured minor child sustained grievous injury and the following tests were taken:

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"X Ray left knee with leg: Fracture distal 1/3rd tibia oblique with bone loss. Fibula intact. Both femoral condylar comminuted. Fracture K-wire in SITU. Ankle spanning external fixator in SITU.

21.10.2016: Wound Debridement of left leg and skin Allograft (800 cm) application of left leg.

Diagnosis: Post operative follow up case of left leg crush injury with enfix in SITU.

Diagnosis: Follow up case of major crush injury left leg. Type III B open both bones leg fractur withdraw. Valgus deformity left knee and varus deformity left ankle.

06.02.2018: Corrective Osteotomy pf distal tibia with fibulectomy and K-wire fixation left leg epiphysiolysis distal tibia and left medial Hemepiphysiodesis proximal tibia.

22.10.2019: 8 plate removal from left proximal tibia and growth modulation of medial distal femoral left with 8 oplat application."

14. Considering the nature of injuries sustained by the injured, the Tribunal finds it justified to apply multiplier method to award compensation and also fixed Rs.3,500/- per month as the income of the minor injured. However, considering the fact that the accident took place in the year 2016, this Court is inclined to fix Rs.5,000/- as the monthly income of the injured minor child. Since the injured minor is an unmarried member and considering her age, multiplier "18" is applied and considering the percentage of disability assessed by the Medical Board at 60% as per Ex.C1, this Court is inclined to award compensation under Loss of Future Income, which comes to Rs.6,48,000/- [Rs.5,000 x 12 x 18 x 60%].

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15. It is relevant to note that the injured minor girl suffered 60% disability as per Ex.C1-Disability Certificate and the injured has taken treatment even after filing the claim petition and she is in constant need of attender for his entire life. However, the Tribunal has awarded attender charges only for 76 days i.e., for the treatment period alone @ Rs.125 / day, totalling to Rs.9,500/-. Considering the nature of injuries sustained by the injured and that she needs constant need of attender for her life time, this Court is inclined to award Rs.2,00,000/- towards Attender Charges. It is also relevant to note that injured suffered a major crush injury in her left leg with circumferential skin and soft tissue loss of entire left leg and she also suffered fracture on her head in left frontal bone and multiple surgeries have to be underwent and she has to be given treatment for correction of the left leg, apart from reducing the length of right leg to enable her to walk. In such circumstances, the compensation awarded by the Tribunal under the head Pain and Sufferings for a sum of Rs.3,00,000/- appears to be meagre and therefore, this Court is inclined to enhance the same to Rs.5,00,000/-. Considering the physical agony underwent by the injured minor child, the compensation amount awarded by the Tribunal under Extra Nourishment at Rs.50,000/- appears to be meagre and therefore, this Court is inclined to enhance the same to Rs.2,00,000/-.

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16. It is pertinent to note that the claimant has filed CMP.No.11159 of 2026 to receive additional documents, namely Discharge Summaries five in number dated 30.01.2021, 04.05.2022, 03.05.2024, 26.09.2024 and 25.09.2025 and the medical bills / pharmacy bills, 73 in number along with a list containing their details. It is stated in the said petition by the father of the minor injured that his daughter took treatment in various hospitals as in-patients and underwent surgeries on her legs and she could not move without the help of attender even now and if the documents filed by the claimant are not received as additional documents, serious prejudice would be caused to the claimant. The 2nd respondent / Insurance Company has not filed any counter statement to the petition filed to receive additional documents.

17. Considering the nature of injuries sustained by the injured minor child and that she already suffered 60% permanent disability as per Ex.C1-Disability Certificate and the claimant spent huge expenditure towards medical bills even after filing the claim petition and she needs continuous future treatment in future also, this Court is inclined to award a sum of Rs.3,00,000/- towards Future Medical Expenses. Since this Court has already enhanced the compensation awarded by the Tribunal under other heads and also awarded Rs.3,00,000/- towards Future Medical Expenses, this Court is not inclined to allow CMP.No.11159 of 2026 for reception of additional documents. ***Accordingly, CMP.No.11159 of 2026 stands closed.***

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18. In the light of the above discussions, the compensation awarded by the Tribunal is modified as hereunder:

Heads of Compensation	Amount awarded by this Court (Rs.)
Future Loss of Income [5,000 x 12 x 18 x 60%]	6,48,000
Pain and Suffering	5,00,000
Agony caused to her Parents	1,00,000
Loss of Martial Prospects	3,00,000
Transport Charges	30,000
Loss of Future Amenities	1,00,000
Extra Nourishment	2,00,000
Attender Charges	2,00,000
Medical Bills	4,11,378
Future Medical Expenses	3,00,000
TOTAL **Rounded Off**	**27,89,378** **27,89,400**

19. It is made clear that the award of compensation by this Court under Future Medical Expenses, Pain and Sufferings and others heads as discussed above came to be passed by this Court, taking into consideration the peculiar facts and circumstances of the case, since the injured victim in this case is a minor girl child aged about 4 years and the physical trauma she faced so far by way of treatment and surgeries underwent for her injuries sustained in the accident and therefore, the observations made by this Court in this case cannot be cited as a precedent in future.

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20. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed and the award dated 01.02.2021 passed in MCOP.No.423/2016 on the file of the Motor Accidents Claims Tribunal, III Additional District Court, Villupuram @ Kallkurichi is modified to the effect that the claimant is entitled to an enhanced compensation of Rs.27,89,400/- together with interest @ 7.5 % p.a. from the date of claim petition till the date of deposit. No costs.

(ii) The 2nd respondent / Insurance Company is directed to deposit the compensation amount, now determined by this Court, less amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment.

(iv) On such deposit, the appellant / claimant is entitled to withdraw the same, less amount already withdrawn if any, on filing appropriate application before the Tribunal and on payment on requisite Court Fee for the enhanced compensation.

(v) The claimant is not entitled for interest on the enhanced compensation for the delay period of 1603 days, as per the interim order of this Court dated 08.04.2026 in CMP.No.26907 of 2025.

(vi) The manner, mode and disbursement of compensation shall be as per the order of the Tribunal.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

Jvm

To
1.Motor Accidents Claims Tribunal,
III Additional District Court,
Villupuram @ Kallkurichi.

2.The Section Officer,
VR Section, High Court, Madras.

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M.JOTHIRAMAN J.

Jvm

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