



WEB COPY



CMA.NO.920 OF 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

AND

THE HONOURABLE DR. JUSTICE A.D.MARIA CLETE

CMA.NO.920 OF 2022

S.Mumtaj,
D/o. Alla Basha,
No.3-160, Muthu Bangaru Kalni,
M.Venkatagiri Post,
Bangaru Palem Mandal,
Chittoor District, Andhra Pradesh.

... Appellant /
Petitioner

Vs.

1. M/s. JSM Logistics Private Ltd.,
Plot No: 1 & 1A, Flat No.4A, 4th Street,
U R Nagar Extn., Anna Nagar West Extension,
Chennai – 600 101.
2. Reliance General Insurance Company Limited,
Reliance House, 6th Floor, M.T.P.C.O.,
Legal Department, No.6, Haddows Road,
Nungambakkam, Chennai – 600 006.

... Respondents /
Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the Award dated 28.10.2021 made in M.C.O.P.No.1004 of 2015 on the file of the Motor Accidents Claims Tribunal, Special Sub Judge No.II, Small Causes Court, Chennai.



WEB COPY



CMA.NO.920 OF 2022

For Appellant : Mr.K.Suryanarayanan
For R2 : Ms.C.Bhuvanasundari
Standing Counsel
For R1 : No appearance

J U D G M E N T

(Judgment of the Court was delivered by Dr.A.D.MARIA CLETE, J.)

Aggrieved by the Award dated 28.10.2021 passed in M.C.O.P.No. 1004 of 2015 by the Motor Accidents Claims Tribunal, Special Sub Judge No.II, Small Causes Court, Chennai (hereinafter referred to as the “Tribunal”), the appellant/claimant has preferred the present Civil Miscellaneous Appeal.

2. On 27.09.2014, at approximately 8:45 AM, a shared autorickshaw (AP-03-X-9477) traveling from Mugali, Venkatagiri village to Mugali village in Chittoor district along the Chennai-Bangalore National Highway was hit head-on by a lorry (TN-02-AR-8043) near Gandlapalli bus stop, Bangarupalem Mandal. The lorry driver, driving at high speed rashly and negligently, veered onto the wrong side of the road, resulting in a severe collision. The impact caused the instant deaths of Sujatha and Pyarijan, while Muntaj, Chinnamma, Sinni, and Vazhitha sustained grievous injuries. The present CMA arises from MCOP No. 1004 of 2015, wherein the injured



CMA.NO.920 OF 2022

petitioner [S.Mumtaj], has sought just compensation for the disabilities sustained due to the accident.

WEB COPY

3. The sole contention urged by the appellant before us is that the Tribunal erroneously applied a 75% disability assessment, as per the disability certificate issued by the Regional Medical Board, Government Stanley Medical College Hospital, Chennai (marked as Ex.C2). The Tribunal failed to consider Ex.P31, the disability certificate issued by the Andhra Pradesh Medical Board, which had assessed the petitioner's disability at 90%. Notably, the Tribunal provided no valid reasoning for disregarding Ex.P31, despite it being a crucial piece of medical evidence.

4. The petitioner suffered severe and permanent injuries, including fracture dislocation at D12 leading to complete paraplegia below the umbilical level, loss of neurological function, absence of knee and ankle reflexes, urinary tract complications, and deep vein thrombosis. Various medical reports and disability assessments, including those from CMC Vellore, JIPMER, SV Ayurvedic College, and PES Institute of Medical Sciences, confirmed the gravity of her condition. The Andhra Pradesh Medical Board (Ex.P31) fixed her disability at 90%, primarily due to



complete paraplegia, while the Regional Medical Board at Stanley Medical College, Chennai (Ex.C2), later assessed it at 75%. The Tribunal chose to rely solely on Ex.C2.

5. The Tribunal's reasoning for fixing functional disability at 75% appears to stem from Ex.P31's observation that the petitioner could perform limited tasks, such as manipulating objects with fingers, sitting, reading, and writing. However, the Tribunal failed to appreciate that these minimal abilities do not negate the reality of her complete lower-body paralysis. The petitioner remains entirely dependent on others for mobility, hygiene, and basic self-care, which severely restricts her ability to lead an independent life.

6. The Tribunal's decision to reduce the disability assessment to 75% is unjustified. The petitioner's complete paraplegia, loss of neurological function, bladder and bowel control, and deep vein thrombosis make her permanently dependent on external assistance for daily living. While the Tribunal emphasized her limited ability to perform certain minor tasks, this does not negate the fact that she has lost all mobility and physical autonomy.



WEB COPY

7. The Hon'ble Supreme Court and various High Courts have consistently held that functional disability should be assessed in a manner that considers the real-world impact of injuries on a person's ability to sustain independent livelihood and daily activities. In this case, the petitioner's severe neurological impairments and complete lower-body dysfunction render a 90% disability assessment more accurate and just. By fixing disability at 75%, the Tribunal has underestimated the permanent, life-altering consequences of the injuries, leading to inadequate compensation. Hence it requires interference by this Court.

8. Accordingly, the compensation under the head "Disability" is modified by recalculating and applying the formula: Annual Income $\times$ Disability Percentage $\times$ Multiplier = Rs.1,34,400 $\times$ 90% $\times$ 18 = 21,77,280/-. The amounts awarded under the other heads remain unaltered.

9. The revised quantum of compensation shall be based on these modifications as follows:



S.No.	Heads	Amount
1	90% Disability (Rs.1,34,400 x 90/100 x 18)	Rs.21,77,280/-
2	Pain and sufferings	Rs.50,000/-
3	Transportation	Rs.10,000/-
4	Medical Expenses	Rs.57,767/-
5	Extra Nourishment	Rs.10,000/-
6	Attender charges	Rs.21,000/-
7	Loss of amenities	Rs.75,000/-
	Total	Rs.24,01,047/-

10. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal viz. Rs.20,38,200/- is hereby enhanced to Rs.24,01,047/- (Rupees Twenty four lakhs one thousand and fourty seven only). The Second respondent / Insurance Company is directed to deposit the enhanced compensation along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, less the amount if any already deposited to the credit of M.C.O.P.No.1004 of 2015 on the file of the Motor Accidents Claims Tribunal, Special Sub judge No.II, Court of Small Causes, Chennai, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the appellant is entitled to withdraw the same by filing proper application. The appellant is directed to pay necessary Court fee for the enhanced compensation, if any. No costs.



WEB COPY



CMA.NO.920 OF 2022

[R.S.K., J.] [A.D.M.C., J.]
17.02.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No

av

To
The Motor Accidents Claims Tribunal,
Special Sub judge No.II,
Court of Small Causes, Chennai.

R.SURESH KUMAR

AND

DR. A.D.MARIA CLETE



WEB COPY



CMA.NO.920 OF 2022

av

CMA. NO.920 OF 2022

17.02.2025