

C.M.A. (MD) No. 758 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.06.2025

Pronounced on : 29.08.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.A.(MD)No.758 of 2024

Palanimuthu

... Appellant/
Claimant

Vs.

1.F.Jerome

2.M/s.Sriram General Insurance Company Ltd.,
C-135A, 3rd Floor,
5th Cross Street, Thillai Nagar,
Trichy-620018.

... Respondents/
Respondents

(R1 dispensed with vide order dated 05.07.2024)

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree dated 24.11.2021 passed by the Motor Accident Claims Tribunal / III Additional Sub Court, Trichy in M.C.O.P.No.262 of 2020 and enhance the award amount.



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For Appellant : Mr. T. Lenin Kumar

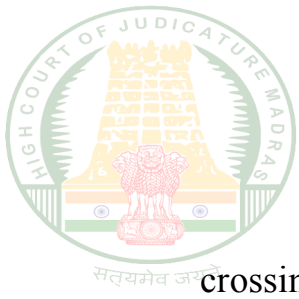
For Respondents : Mr. V. Sakthivel for R2

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.262 of 2020 dated 24.11.2021 on the file of the Motor Accident Claims Tribunal / III Additional Subordinate Court, Tiruchirappalli.

2. The appellant / claimant, who was awarded with a compensation of Rs.7,76,985/- (Rupees Seven Lakhs Seventy Six Thousand Nine Hundred and Eighty Five only) with interest at 7.5% per annum, for the disability sustained by her, consequent to an accident occurred on 27.12.2017, challenged the contributory negligence attributed to her at 15% and also the quantum of compensation awarded at by the Tribunal and thereby claimed enhancement of the same.

3. The case of the appellant is that on 27.12.2017 at about 03.30 p.m., in Trichy – Chennai National Highways Road at Palur, when the appellant was standing on the extreme western side mud portion for



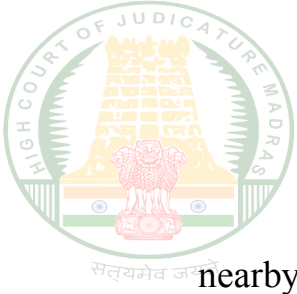
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crossing the road from West to East direction towards Palur bus stop, a car bearing Registration No. TN-22-BF-6521, which came from South to North in a rash and negligent manner, dashed against the appellant and as a result of which, the appellant sustained multiple grievous injuries all over her body and that therefore the car driver alone was responsible for the accident.

4. The defence of the second respondent is that the first respondent's vehicle was not at all involved in the accident, that the appellant's husband, who has given the FIR, has stated that an unidentified vehicle dashed against his wife, that the second respondent came to understand that there was a criminal conspiracy between the appellant, first respondent and the driver so as to facilitate the appellant to make a false claim for compensation against the second respondent and that since the first respondent's vehicle itself was not involved in the accident, the second respondent is not liable for the claim.

5. It is the specific case of the appellant that the jurisdictional police, after registration of FIR, verified the CCTV footages available



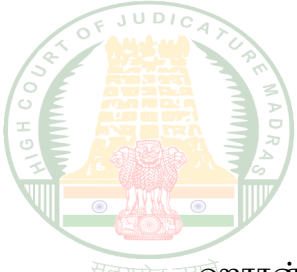
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nearby the accident spot and after proper investigation, identified the first respondent's vehicle was responsible for the accident.

6. It is pertinent to mention that during enquiry, the second respondent has taken a stand that the appellant, without noticing the vehicle, crossed the road and invited the accident and that therefore the appellant alone was at fault. As rightly pointed out by the learned counsel appearing for the second respondent, in the FIR itself, the appellant's husband has stated that his wife was crossing the road from West to East for the purpose of getting bus on the other side and that he was following his wife at that time.

7. P.W.2-occurrence witness in chief examination itself would say□... நானும், பழனிமுத்து, பழனிமுத்து கணவர் நடராஜன் மற்றும் மற்ற உறவினர்களுடன் மாலை சுமார் 3.30 மணியளவில் பஞர் பேருந்து நிறுத்தத்திற்கு செல்வதற்காக திருச்சி □ சென்னை தேசிய நெடுஞ்சாலையில் மேற்கில் இருந்து கிழக்கு நோக்கி சென்று பேருந்து ஏறுவதற்காக ரோட்டை கடந்து செல்லுவதற்காக நாங்கள் ரோட்டை கடந்த போது எனக்கு முன்னால் சென்று கொண்டிருந்த பழனிமுத்து மீது தெற்கிலிருந்து வடக்கு நோக்கி அதிவேகமாகவும், அஜாக்கிரதையாகவும்



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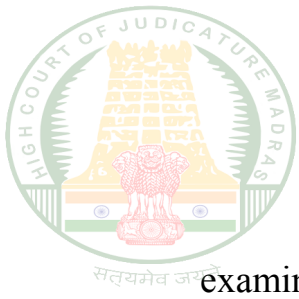
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ஹாரன் அடிக்காமலும் வந்த... □

8. In cross-examination, she would say, □... நாங்கள் பழர் பேருந்து நிறுத்தத்தில் எங்கள் ஊருக்கு செல்ல பஸ் ஏற சென்றோம். மேற்படி பேருந்து நிறுத்தமானது ரோட்டின் கிழபுறத்தில் உள்ளது என்றால் சரிதான். எங்கள் நான்கு பேரில் பழனிமுத்து முதலில் சென்றார். அவருக்கு பின்னால் சுமார் 5 அடி தூரத்தில் நாங்கள் சென்றோம், நாங்கள் அனைவரும் ரோட்டின் மேற்கிலிருந்து கிழக்காக நடந்து சென்று கொண்டிருந்தோம். ரோட்டின் மேல்புறத்தில் உள்ள இரு வழிச்சாலையில் மேல்புறத்தில் விபத்து நடந்தது. மனுதாரர் தவிர நாங்கள் மூன்று பேரும் மேல்புறத்தில் நின்றுவிட்டோம் என்றால் சரிதான். மனுதாரர் மட்டுமே கிழக்கு திசையை நோக்கி சென்று கொண்டிருந்தார்.....□

9. It is pertinent to note that the second respondent has neither filed any appeal nor filed cross objection challenging the finding of the Tribunal with respect to the liability aspect. Considering the evidence available on record, the Tribunal has rightly fixed the contributory negligence on the part of the appellant at 15% and as such, the same cannot be found fault with.

10. Now turning to the compensation, the medical board, upon



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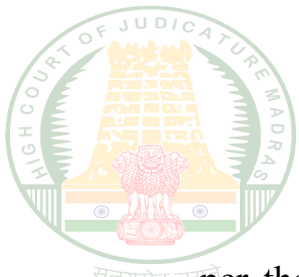
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examining the appellant, has observed that (1) the appellant had fracture forearm right plat fixation, right femur plate and screw fixation and (2) left leg plate and screw fixation and fixed the permanent disability at 35%.

11. Though the appellant has alleged that she was doing coolie work and was getting Rs.9,000/- as monthly income, she has not chosen to produce any evidence. In the absence of any evidence, the Tribunal has rightly fixed the notional monthly income at Rs.7,000/-.

12. The learned counsel appearing for the appellant would submit that the Tribunal has failed to add any amount towards future prospects. The learned counsel appearing for the second respondent would also fairly concede the same.

13. The Tribunal, considering the medical evidence, has fixed the age of the appellant as 42 years at the time of accident. But the learned counsel appearing for the appellant would submit that the appellant was born in the year 1979 as evident from Aadhar Card and that her age was shown as 38 years in the claim petition itself. Considering the above, this Court fixes the age of the appellant as 38 years at the time of accident. As



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per the judgment of the Hon'ble Supreme Court in ***National Insurance Company Ltd., Vs. Pranay Sethi and others*** reported in ***2017 ACJ 2700***,

40% of the income is added for future prospects, making her monthly income Rs.9,800/- (Rs.7,000/- + Rs.2,800/- (40% of the income)). As rightly contended by the learned counsel on either side, the Tribunal has taken the multiplier as 14 instead of 15. Considering the above, the loss of income is calculated as Rs.6,17,400/- (Rs.9,800/- x 12 x 15 x 35%).

14. The learned counsel appearing for the appellant would submit that the amount awarded under the other heads are on lesser side and the same is liable to be enhanced.

15. Considering the nature of injuries, consequent disability sustained, period of inpatient treatment and other attending circumstances, awarding of Rs.50,000/- for pain and suffering, Rs.25,000/- for loss of amenities and Rs.3,000/- for damages to clothing and articles are reasonable but awarding of Rs.10,000/- for extra nourishment, Rs.5,000/- for transportation and Rs.7,000/- for attendant charges are definitely on lesser side and hence, the same are enhanced to Rs.25,000/-, Rs.10,000/- and Rs.20,000/- respectively.



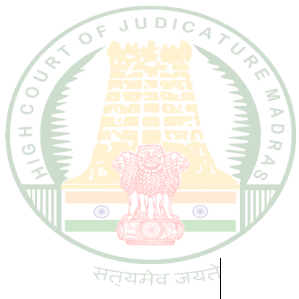
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16. The Tribunal, taking note of the medical bills, has rightly awarded Rs.4,02,500/- towards medical expenses.

17. Though the learned counsel appearing for the appellant would submit that the Tribunal has not awarded any amount for future medical expenses, as rightly pointed out by the learned counsel appearing for the second respondent, there is absolutely no evidence in this regard. In the absence of any evidence, the question of granting any amount towards future medical expenses does not arise. Considering the above, the compensation awarded by the Tribunal is modified as follows:-

S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1.	Loss of income	4,11,600	6,17,400	Enhanced
2.	Pain and suffering	50,000	50,000	Confirmed
3.	Loss of amenities	25,000	25,000	Confirmed
4.	Medical expenses	4,02,500	4,02,500	Confirmed
5.	Extra nourishment	10,000	25,000	Enhanced
6.	Transportation	5,000	10,000	Enhanced
7.	Attendant charges	7,000	20,000	Enhanced
8.	Damage to clothing and articles	3,000	3,000	Confirmed



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Total	9,14,100	11,52,900	Enhanced by Rs.2,38,800/-
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18. Hence, this Court concludes that the appellant is entitled to get 85% of the total compensation amount i.e., Rs.9,79,965/- (Rupees Nine Lakhs Seventy Nine Thousand Nine Hundred and Sixty Five only) with interest at 7.5% per annum.

19. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs.

20. In the result, this Civil Miscellaneous Appeal is partly allowed and the second respondent is directed to deposit the modified enhanced amount of **Rs.9,79,965/- (Rupees Nine Lakhs Seventy Nine Thousand Nine Hundred and Sixty Five only)** with interest at 7.5% per annum from the date of petition till the date of realization excluding the default period to the credit of M.C.O.P.No.262 of 2020 on the file of Motor Accident Claims Tribunal / III Additional Sub Court, Tiruchirappalli, after deducting the amount already deposited if any, within a period of four



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weeks from the date of receipt of a copy of this judgment and on such deposit, the appellant is permitted to withdraw the amount along with accrued interest and costs, less amount already withdrawn, if any, on due application before the Tribunal. Parties are directed to bear their own costs. The appellant is **directed to pay the court fee** for the enhanced compensation, if any, and the Registry is directed to draft the decree only after the payment of Court fee.

29.08.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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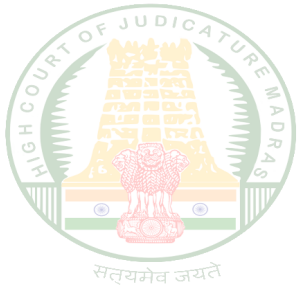
1. The III Additional Sub Judge,
Tiruchirappalli.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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**Pre-Delivery Judgment made in
C.M.A.(MD)No.758 of 2024**

Dated : 29.08.2025