



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2026

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.515 of 2024

M.Mahesh

..Appellant

.VS.

1.The Managing Director,
M/s.Bargi Chemicals Pvt., Ltd.,
No.1848, Venu Vihar, K.Block,
Kuvempungar, Mysore 570 023.

2.The Oriental Insurance Co., Ltd.,
Do II Mysore, New Muslim Hospital Complex,
Opposite fire Brigade, I Main, Saraswathipuram,
Mysore 570 009.

..Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgement and decree dated 14.09.2023 made in MCOP.No.1266 of 2020, on the file of the Motor Accident Claims Tribunal/Principal Subordinate Judge, Krishnagiri.

For Appellant : Mr.R.K.Jawahar

For Respondents : Mr.S.Senthilkumar for R2



JUDGMENT

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This appeal has been filed challenging the Award passed by the MACT, Principal Subordinate Judge, Krishnagiri in MCOP No.1266 of 2020 dated 14.09.2023, by the appellant.

2.The case of the claimant is that on 20.05.2018, he was travelling in a two wheeler on the Bangalore-Hosur National Highways and at about 4.00 p.m., when the vehicle came near the bridge, the offending vehicle which was a tanker lorry and which was owned by the 1st respondent was driven in a rash and negligent manner and it dashed against the two wheeler. As a result of which, the claimant sustained the following injuries:

- 1.Left leg both bones communitied fracture oper type III B grancture
- 2.Left clavicle mid shaft fracture
- 3.Right leglacerated wound

3.The claimant was admitted in a hospital and he took treatment as an inpatient for nearly fifteen days. The claimant underwent nearly seven procedures in the private hospital. It is under these circumstances, the claim petition came to be filed before the Tribunal.



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4. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle. Having rendered the above finding, the Tribunal fixed the total compensation of Rs.13,92,015/- under various heads as follows:

Compensation awarded under the head	Amount (in Rs.)
Partial Permanent Disability (40 x 5000)	2,00,000
Pain and Sufferings (30000 x 7)	2,10,000
For loss of amenities	50,000
Extra Nourishment	40,000
Attender Charges	40,000
Transportation Charges	50,000
Medical Expenses	5,62,015
For Temporary Loss of Income (12000x 20)	2,40,000
Future Medical Expenses	Nil
Total	13,92,015

5. The Tribunal found that the claimant did not possess a valid driving license and hence, deducted 20% towards contributory negligence and directed the Insurance Company to pay the compensation of Rs.11,13,612/- along with interest at the rate of 7.5% per annum.



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6.The Tribunal found that the driver of the offending vehicle did not possess a valid driving license and therefore, ordered for pay and recovery. Aggrieved by the same, the present appeal has been filed by the claimant seeking for enhancement of compensation.

7.This Court has carefully considered the submissions made on either side and also the materials available on record and this Court also went through the Award passed by the Tribunal.

8.The learned counsel for the appellant submitted that the claimant suffered grievous injuries and underwent nearly seven procedures and he ultimately, lost his job. Apart from that, the Medical Board had also assessed 40% permanent disability and therefore, the Tribunal ought to have applied multiplier method, since the claimant has lost his earning capacity. The next ground that was urged by the learned counsel for the appellant is that, the Tribunal went wrong in fixing the monthly income of the claimant at Rs.12,000/-. When the claimant was actually drawing a salary of Rs.13,285/- which was established by marking the bank statement as EX.P13.

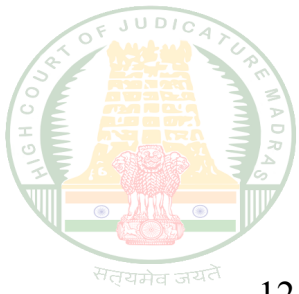


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9. The further ground that has been raised is that, the Tribunal ought not to have fixed 20% towards contributory negligence merely on the ground that the claimant did not possess a valid driving license.

10. Per contra, the learned counsel for the Insurance Company submitted that the claimant had taken treatment as an inpatient for fifteen days and when he was an inpatient, all the procedures were undertaken by the private hospital. The learned counsel submitted that the claimant did not prove that he had suffered any functional disability and therefore, the Tribunal did not apply the multiplier method. The learned counsel further submitted that the compensation that has been awarded by the Tribunal under certain heads are excessive and requires the interference of this Court. The learned counsel also supported the finding of the Tribunal attributing 20% contributory negligence to the claimant. Accordingly, the learned counsel sought for the dismissal of the present appeal.

11. In the case in hand, the Tribunal after considering the evidence and more particularly, the Disability Certificate issued by the Medical Board which was marked as EX.C1, came to a conclusion that there is no material to substantiate that the claimant suffered from any functional disability. The Tribunal also considered EX.P12 which was relied upon by the claimant to establish that he has been removed from the job.



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12.The claimant in this case was working as an Executive in a private company. Any job at that level in a private company, carries with it an element of uncertainty. Many private companies follow the principle of hire and fire with respect to the employees above a particular level. Therefore, even if the claimant had not suffered any disability, there was no guarantee that the claimant would have continued to work in the same company. Hence, the private company not utilising the services of the claimant and removing him from service, does not establish that the claimant had suffered any functional disability warranting the application of the multiplier method. In view of the same, the finding of the Tribunal by adopting the percentage method is perfectly in order.

13.Insofar as the monthly income is concerned, the Tribunal has granted compensation towards loss of income for a period of twenty months. Considering the duration for which the loss of income has been fixed, this Court is not inclined to interfere with the compensation fixed by the Tribunal under the head of loss of income.



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14.It is also seen that the Tribunal has, in fact, fixed very high compensation under certain heads. However, considering the fact that the claimant has filed the appeal, this Court does not want to disturb the compensation amount fixed by the Tribunal.

15.The last issue is regarding the contributory negligence attributed against the claimant. The Tribunal has attributed contributory negligence only on the ground that the claimant did not possess a valid driving license. It is now too well settled that non-possession of a valid driving license will not automatically result in attributing contributory negligence. Useful reference can also be made to the judgement of the Hon'ble Apex Court in ***Dinesh Kumar J. @ Dinesh J. v. National Insurance Co. Ltd. & Ors.***, reported in (2018) 1 SCC 750.

16.Accordingly, the finding rendered by the Tribunal fixing 20% contributory negligence is set aside.

17.In the light of the above discussion, the compensation amount fixed by the Tribunal is confirmed. The contributory negligence of 20% fixed by the Tribunal is set aside and the entire compensation amount along with interest



shall be paid by the 2nd respondent/Insurance Company. It goes without saying that the pay and recovery ordered by the Tribunal is sustained.

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18.The compensation awarded by the tribunal at Rs.13,92,015/- is sustained. The 2nd respondent/Insurance Company is directed to deposit the compensation amount of Rs.13,92,015/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

19.In the result, this Civil Miscellaneous Appeal stands allowed. No Costs.

08.07.2026

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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The Motor Accident Claims Tribunal/Principal Subordinate Judge, Krishnagiri.



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N. ANAND VENKATESH., J

SSR

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