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CMA No. 129 of 2023,



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 03-06-2026**

CORAM

**THE HON'BLE MR JUSTICE C.V. KARTHIKEYAN**

**AND**

**THE HON'BLE MR.JUSTICE K.RAJASEKAR**

**CMA Nos.129, 133, 134 of 2023 and  
CMP Nos.1132, 1141 and 1145 of 2023**

The New India Assurance Co. Ltd  
Branch office,  
No.184/1-31-32, Mitra Mandal Hsg,  
Parvati, Pune- 411009.

..Appellant

Vs

1. R.Gopika
2. Venco Research and Breeding Farm  
Private Ltd.  
Venkateshwara House, HCF Post,  
Attibele Road, Post- Mathigiri,  
Hosur Cattle Farm, Hosur-635110.

..Respondents

**CMA No. 133 of 2023**

The New India Assurance Co. Ltd  
Branch office,  
No.184/1-31-32, Mitra Mandal Hsg,  
Parvati, Pune- 411009.

..Appellant

Vs

1. Praveen Kumar
2. Venco Research and Breeding Farm  
Private Ltd.  
Venkateshwara House, HCF Post,  
Attibele Road, Post- Mathigiri,  
Hosur Cattle Farm, Hosur-635110

..Respondents



**CMA No. 134 of 2023**

The New India Assurance Co. Ltd  
Branch office,  
No.184/1-31-32, Mitra Mandal Hsg,  
Parvati, Pune- 411009.

..Appellant

Vs

1. R.Kishore Kumar
2. Venco Research and Breeding Farm  
Private Ltd.  
Venkateshwara House, HCF Post,  
Attibele Road, Post- Mathigiri,  
Hosur Cattle Farm, Hosur-635110

..Respondents

**CMA No. 129 of 2023**

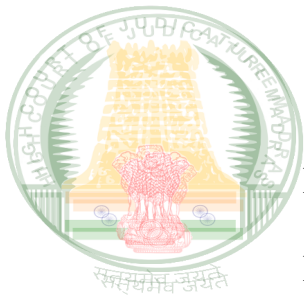
Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to set aside the Decree and Judgment dated 07.01.2022 passed in MCOP.No.399 of 2018 by the Motor Accident Claims Tribunal, Special Sub Court (MACT) at Dharmapuri

**CMA No. 133 of 2023**

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to set aside the Decree and Judgment dated 7th January 2022 passed in MCOP.No.398 of 2018, by the Motor Accident Claims Tribunal, Special Sub Court (MACT) at Dharmapuri.

**CMA No. 134 of 2023**

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to set aside the Judgement dated 07th January 2022 passed in MCOP No.437 of 2018 by the Motor Accident claims Tribunal, Special Sub Court (MACT) at Dharmapuri.



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For Appellant:

Ms.C.Bhuvanasundari

For Respondents:

Mr.A.Ilayaperumal for R1

No appearance for R2

### **COMMON JUDGMENT**

**(Judgment of the Court was delivered by C.V.Karthikeyan J.)**

All the three appeals have been filed by the Insurance Company questioning the award dated 7th January 2022 passed in M.C.O.P.Nos.398, 399 and 437 of 2018 passed by the Motor Accident claims Tribunal, Special Sub Court (MACT) at Dharmapuri.

2. Facts of the case are as follows:-

On 29.05.2017 at about 6.00 AM, Kishore Kumar was riding his. two wheeler TN 29 AF 5189 along with his brother Praveenku and sister Gopika as pillion riders in Morappur to Dharmapuri road. While nearing Pananthoppu Hutson Milk Company, the Eicher vehicle TN 70 B 6495, driven by its driver in a rash and negligent manner, dashed the two wheeler causing the accident causing injuries to all the three riders of the motorcycle. All the petitioners were admitted in Government Hospital, Dharmapuri, Ganga hospital, Coimbatore and then took treatment in private hospitals. In this regard, a case was registered by Mathikopalayam Police Station Cr.No.165/2017 u/s.279, 337 & 338 of IPC. Claiming that due to the injuries sustained, the claimants had suffered permanent disability and they were not able to continue their work and their

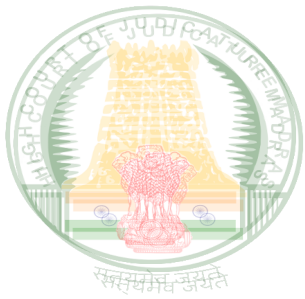


studies and they lost their earning power and studies completely, they had filed the claim petitions in M.C.O.P.Nos.398, 399 and 437 of 2018 seeking compensation of Rs.10,00,000/-, Rs.5,00,000/- and Rs.75,00,000/- respectively.

By a common award, the Tribunal had awarded a sum of Rs.4,79,729/-, Rs.9,09,834/- and Rs.24,40,884/- respectively. Challenging the said award both on the ground of negligence and on the ground of quantum, the present Appeals have been filed by the Insurance Company.

3. The main challenge is that the claimants were travelling in triplet in the motorcycle and that the accident had occurred since they were driving the motorcycle in a rash and negligent manner without following the lane discipline. In this regard, the learned counsel for the appellant sought to rely on the rough sketch marked before the Tribunal. However, it is seen that no question had been put during the cross examination of any of the claimants to elicit the rash and negligence on the part of the rider of the motorcycle or violation of lane discipline. It is also seen that neither the driver of the offending vehicle nor any independent witness was examined to speak about the manner in which the accident took place. Absolutely, no evidence had been adduced on the part of the appellant that triplet riding of the motorcycle was the cause for the accident.

4. Therefore, we are not inclined to accept the case of the appellant that there was contributory negligence on the part of the rider of the motorcycle. Accordingly, the finding of the Tribunal is confirmed with regard to negligence.



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5. With regard to quantum of compensation awarded by the Tribunal, the main grievance raised is that multiplier method had been adopted and according to the learned counsel for the appellant, the injuries are simple in nature and they do not necessitate the adoption of multiplier method for determining the loss of earning capacity.

6. In this regard, an analysis of the discharge summary of all the three claimants viz., Exs.P9, P12 and P17 would reveal the ground reality. Therefore, the relevant portions of the same are extracted below:-

***"Patient Name: Mr.Praveen Kumar R.***

***List of injuries***

*1) Left black eye.*

*2) Left clavicular region:*

*- Tenderness present*

*- Crepitus present*

*- Abnormal mobility present.*

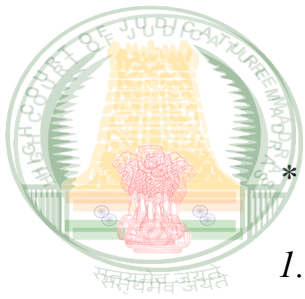
***X-Ray Reports***

***CHEST PA : FRACTURE MID SHAFT LEFT CLAVICLE.***

***01.06.2017: CT - BRAIN***

***C/H: Head injury***

***FINDINGS:***



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\* *Extradural hematoma in the left temporal region measuring 1.6 cms causing mild compression of the temporal lobe.*

\* *Displaced fracture of left greater wing of sphenoid. Fracture of superior, medial and inferior wall of left orbit with minimal herniation of infraorbital fat posteriorly.*

\* *Displaced fracture of lateral and anterior wall of left maxillary sinus with hemosinus.*

\* *Fracture of hard palate.*

\* *Fracture body of the sphenoid bone and lateral wall of the left sphenoid sinus with hemosinus.*

\* *Left frontal bone extending into the frontal sinus with hemosinus.*

### ***IMPRESSION:***

\* *Extradural hematoma in the left temporal region measuring 1.6 cms causing mild compression of the temporal lobe.*

\* *Multiple skull base fractures.*

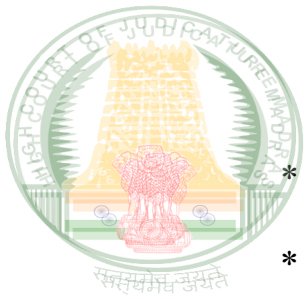
\* *Left maxillary, frontal, sphenoid and ethmoidal homosiu.*

### ***Opinion***

*In my opinion the injury No.1, 2 are grievous in nature.*

***Patient Name: Miss.Gopika. R***

### ***Diagnosis***



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\* *Type III B Open communitied fracture both bones left leg.*

\* *Closed fracture left lateral malleolus.*

\* *Type III B Open communitied fracture shaft of left femur.*

\* *Head injury: Scalp Haematoma.*

***Patient Name : Mr.Kishore Kumar. R.***

### ***Diagnosis***

\* *Major crush injury left lower limb.*

\* *Open type III C Trisegmental Fracture left tibia with distal avascularity.*

\* *Closed fracture dislocation left hip.*

### ***Procedure***

***29.05.2017:***

\* *Debridement, Revascularisation and orif with LCP left distal tibia and ankle spanning EXFIX application.*

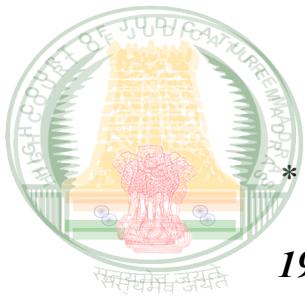
\* *Debridement and non critical revascularisation of left posterior tibial vessel.*

\* *Closed reduction left hip and distal femoral pin traction.*

***31.05.2017:***

\* *SSG cover of raw area over lower third and proximal third of left leg.*

***12.06.2017:***



*\* Open reduction and internal fixation left ACET abulum.*

**19.06.2017:**

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*\* Debridement of wound left ankle.*

**22.06.2017:**

*\* Debridement and free ALT flap cover over raw area left leg.*

**24.06.2017:**

*\* SSG cover over raw areas in the ALT donor area and residual non critical raw areas of left leg lower third."*

7. A perusal of the above would reveal that the Tribunal had correctly appreciated the nature of injuries and had taking into consideration the young age of the claimants and adopted the multiplier method. The percentage of disability had also been correctly determined. On properly considering the Disability Certificate issued by the Medical Board and giving elaborate reasons, the Tribunal had correctly arrived at the loss of earning capacity. We have also gone through the discharge summaries, assessment of disability and the nature of injuries sustained by all the victims and we are of the view that due to the injuries sustained by them, their earning capacity had drastically reduced. Hence, we are of the view that adoption of multiplier method for determining the loss of earning capacity is proper and does not warrant any interference.

8. With respect the award of compensation under the head medical



expenses and various other heads, it is seen that no cross examination had been done challenging the correctness of the medical bills. We have also gone through the medical bills produced before the Tribunal and find that they are in corroboration of discharge summaries and other evidence. Hence, we are not inclined to interfere with the finding of the Tribunal under various other heads also.

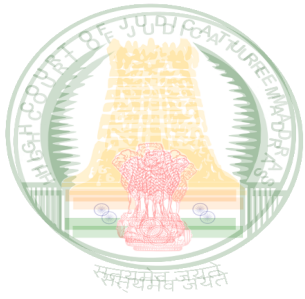
9. In the result, the Civil Miscellaneous Appeals are dismissed. No costs. The connected Miscellaneous Petitions are closed.

(C.V.K.,J.) (K.R.S.,J.)  
03-06-2026

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

ssk

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