



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2026

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1259 of 2025
& Cros.Obj.No.50 of 2025
and CMP No.10572 of 2025

CMA No.1259 of 2025

1.National Insurance Co., Ltd.,
No.63, Rasi Plaza,
West Pradhashinam Road, Karur,
Karur District 639 002.

2.National Insurance Co. Ltd.,
Divisional Office,
No.73, Perundurai Road,
Near Collector Office,
Erode 638 011, Erode Taluk,
Erode District

..Appellants

.vs.

1.Tamilselvi

2.S.Suresh Kumar

3.Mass Ready Mix
Office at SF No.499-Pavithiram Village,
Pavithram (Post)
Aravankurichi Taluk,
Karur District 639 002

..Respondents



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Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Award dated 11.11.2024 in MCOP No.267 of 2021, on the file of the Special District Judge, Erode.

For Appellants : Mr.S.Senthil Kumar

For Respondents : Mr.R.Nalliyappan for R1

Cros.Obj.No.50 of 2025

Tamilselvi

Cross Objector

vs.

1.National Insurance Co., Ltd.,
No.63, Rasi Plaza,
West Pradhashinam Road, Karur,
Karur District 639 002.

2.National Insurance Co. Ltd.,
Divisional Office,
No.73, Perundurai Road,
Near Collector Office,
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3.S.Suresh Kumar

4.Mass Ready Mix
Office at SF No.499-Pavithiram Village,
Pavithram (Post)
Aravankurichi Taluk,
Karur District 639 002.

Respondents



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For Cross Objector: Mr.R.Nalliyappan

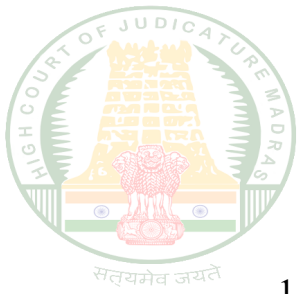
For Respondents : Mr.S.Senthil Kumar for R1 & R2

JUDGMENT

This appeal has been filed by the Insurance Company challenging the Award passed by the MACT, Special District Judge, Erode, in MCOP No.267 of 2021, dated 11.11.2024.

2.The claimant has also filed a Cross Objection seeking for enhancement of compensation and questioning 15% contributory negligence on the ground that the claimant did not wear a helmet at the time of the accident.

3.The case of the claimant is that on 13.02.2021, the claimant was travelling as a pillion rider in moped which was ridden by her daughter at Karur-Kovai Main Road. At about 5 p.m., while proceeding near Natesan Nagar, the offending vehicle which was a lorry was driven in a rash and negligent manner and it over took the two wheeler and dashed on the moped. As a result of which, both the rider and the pillion rider fell down and the claimant sustained the following injuries:

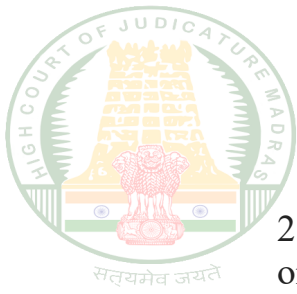


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1. RTA with head injury.
2. Acute subarachnoid hemorrhage NOTD involving Bilateral Cerebral Hemisphere Interhemisphere Fissure and Tentorium.
3. Acute thin subdural Hemorrhage along with Right Cerebral Hemisphere.
4. Multiple small hemorrhagic contusions with proximal edema in Right Temporal lobe.
5. Focal acute extra axial bleed in left parietal convexity measuring 7mm in Maximal thickness.
6. Linear undisplaced fracture of left parietal and squamous temporal bone.
7. Mild diastasis of Coronal suture.
8. Undisplaced fracture of left zygomatic arch.
9. Right Parieto Occipital and Left Parieto Temporal Scalp Hematoma.
10. Mass effect in the Form of Compression of the Right Lateral Ventricle along with Midline shift towards left around 8.1mm.
11. Mild Cardiomegaly.
12. Mosaic Attenuation in B/L Lung Parenchyma.
13. Linear Parenchymal strands in B/L lower lobe.

4. The claimant was taking treatment as an inpatient from 13.02.2021 to 18.02.2021 and the following procedures were done to her:

1. Tracheostomy on 18.2.2021.



2. Soft Tissue Injury Facial Suturing with Tracheostomy closure on 17.03.2021.

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5.It is under these circumstances, the claim petition came to be filed before the Tribunal.

6.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 such a finding, the Tribunal attributed contributory negligence of 15% on the ground that claimant was not wearing a helmet and accordingly, only 85% negligence was fixed on the driver of the offending vehicle.

7.The Tribunal proceeded to fix the total compensation of Rs.18,95,633/- under various heads as follows:

Compensation awarded under the head	Amount (in Rs.)
For Functional Disability	9,75,000
For Pain and Sufferings	90,000
For loss of amenities	50,000
For Transportation Charges, Attender Charges and Extra	40,000



Nourishment	
Medical Expenses	7,38,633
Damages to Clothes	2,000
Total	18,95,633

8.From the above compensation amount, 15% was deducted and a sum of Rs.16,11,288/- was directed to paid along with interest at the rate of 7.5% per annum.

9.Aggrieved by the same, the Insurance Company has filed the appeal questioning the quantum of compensation fixed by the Tribunal and the claimant has filed the Cross Objection challenging the 15% contributory negligence fixed by the Tribunal and also seeking for enhancement of compensation.

10.When the appeal came up for hearing on 09.07.2026, this Court after hearing the counsel on either side found that the Medical Board had assessed permanent disability of 25% through EX.C1, Disability Certificate, and whereas, the Tribunal had assessed 50% functional disability and applied multiplier method. In view of the same, this Court wanted to understand as to why the Tribunal fixed the functional disability and applied the multiplier

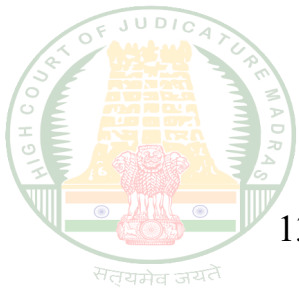


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method. Accordingly, this Court directed the claimant to be present at the time of hearing today.

11.Today, when the matter was taken up for hearing, the claimant was present along with her daughter. On assessment, I found that the claimant was not able to lift her left hand beyond a particular level. This Court also found that the claimant had difficulty in walking, since her left leg had also been affected due to the accident. Apart from that, the claimant has hearing loss in her right ear.

12.As stated *supra*, the Medical Board had assessed the permanent disability at 25% and issued EX.C1. While deciding the issue of functional disability and loss of earning capacity, the Court is expected to independently assess as to whether the injury suffered by the claimant has a direct impact on her daily life and whether it affects her ability to earn and depending upon the same, the functional disability has to be fixed. Hence, it is not entirely dependent on the disability that is fixed by the Medical Board and the Disability Certificate issued by the Medical Board and it only forms the basis while the Court fixes the functional disability and ascertains the loss of earning capacity.



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13. In the case in hand, the claimant was working as a Beautician. In view of the accident, it is almost impossible for the claimant to continue with that work, since she is not able to lift her left hand. No one will engage the claimant as a Beautician, if the claimant is in a position to only move her right hand.

14. The above functional disability suffered by the claimant was properly assessed by the Tribunal and that is the reason why, the Tribunal has fixed the functional disability at 50% and applied the multiplier method. This finding rendered by the Tribunal does not suffer from any perversity warranting the interference of this Court.

15. The next issue is regarding 15% contributory negligence attributed against the claimant. The Tribunal on assessment of evidence, came to a categorical 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 such a finding, the Tribunal fixed 15% contributory negligence only on the ground that the claimant was not wearing a helmet. It is now too well settled that the contributory negligence cannot be fixed automatically just because the injured or the deceased did not wear a helmet.



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In view of the same, 15% contributory negligence attributed against the claimant by the Tribunal, is hereby set aside.

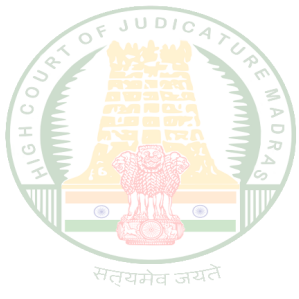
16. Going into the issue of compensation, it is seen that the Tribunal has fixed the notional monthly income of the claimant at Rs.10,000/- per month. The accident had taken place in the year 2021 and considering the avocation of the claimant, this Court is inclined to fix the notional monthly income at Rs.15,000/- per month. Accordingly, the compensation under the head of functional disability is calculated as follows:

$$\text{Rs.18,750/- } (15000 + 25\% = 18,750) \times 12 \times 13 \times \frac{1}{2} = \text{Rs.14,62,500/-}$$

17. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

18. In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:

Compensation awarded under the head	Amount (in Rs.)
For Functional Disability (15000 + 25% = 18,750) (18,750 x 12 x 13 x 1/2)	14,62,500



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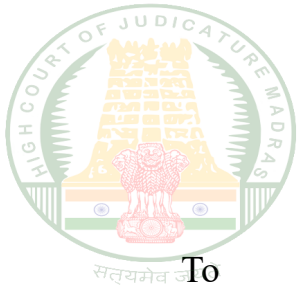
For Pain and Sufferings	90,000
For loss of amenities	50,000
For Transportation Charges, Attender Charges and Extra Nourishment	40,000
Medical Expenses	7,38,633
Damages to Clothes	2,000
Total	23,83,133

19.The compensation awarded by the tribunal at Rs.18,95,633/- is enhanced to Rs.23,83,133/-. The appellant insurance company is directed to deposit the enhanced compensation of Rs.23,83,133/-, less the amount already deposited, together with interest at the rate of 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment.

20.In the result, the appeal filed by the Transport Corporation is dismissed and the Cross Objection filed by the claimant is partly allowed. No Costs. Consequently, the connected miscellaneous petition is closed.

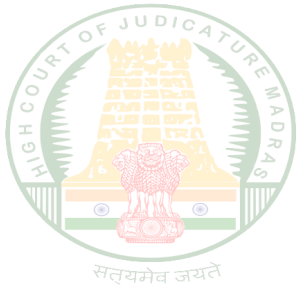
16.07.2026

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To
The Motor Accident Claims Tribunal, Special District Judge, Erode.



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N. ANAND VENKATESH., J

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