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CMA No.2395 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 21-07-2026**

CORAM

**THE HON'BLE MR JUSTICE N. SATHISH KUMAR**

**AND**

**THE HON'BLE MR.JUSTICE M.JOTHIRAMAN**

**CMA No. 2395 of 2026**

**and**

**CMP NO.18356 of 2026**

National Insurance Company Limited,  
Divisional Office No.1, LRN Colony,  
Saradha College Main Road,  
Salem-636 007.

..Appellant(s)

Vs

1.Mr.Vadivel  
S/o. Palanimuthu

2.Mr.P.Anbarasan  
S/o. Perumal

..Respondent(s)

**Prayer:** To set aside the Judgment and Decree dated 07.03.2024 made in MCOP.No.1991 of 2017 on the file of the Motor Accidents Claims Tribunal, Special Sub-Court-I, Salem.

For Appellant(s): Mr.S.Arun Kumar

For Respondent(s): Mr.S.P.Yuvaraj,  
Counsel for R1

**Judgment**

**(Judgment of the Court was delivered by M.Jothiraman J.)**

Unsuccessful Insurance Company has preferred this Civil Miscellaneous Appeal challenging the award dated 07.03.2024 in



MCOP.No.1991 of 2017 passed by the Motor Accidents Claims Tribunal,  
Special Sub-Court-I, Salem.

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2. According to the injured claimants that on 13.01.2015 at about 11.00 p.m., while one of the claimants Vadivelu was riding in his Hero Honda Super Splendour Motorbike bearing Reg.No. TN 54Z 4232 along with his daughter Anbukkarasi were proceeding from Aattur to Veerakanur Naduvalur Gengavalli Branch Road, at that time, an unknown vehicle hit against the motorcycle and caused the accident. Due to sudden impact, Vadivelu sustained multiple injuries on his body and immediately, he was taken to Government Hospital, Salem for first aid and thereafter, shifted to Kurinji Hospital, Salem and again shifted to Ganga Hospital, Coimbatore for further treatment. In the said accident the pillion rider / claimant Anbukkarai also sustained multiple injuries. The injured Vadivelu was admitted as inpatient for 15 days. He has spent Rs.10,00,000/- for medical expenses. Considering the Loss of Income, Pain and Suffering, Permanent Disability, Medical Expenses etc., both the claimants claimed Rs.20,00,000/- and Rs.50,00,000/- respectively as compensation.

3. The 2<sup>nd</sup> respondent therein / appellant Insurance Company contested the claim made by the claimants / respondents and filed a counter affidavit wherein it has been stated that the road accident was occurred due to the rash and negligent driving of Tata 407 vehicle bearing Reg.No.TN 45Y 8445, it was



reliable learnt that a fraudulent case has been created with the help of police personnel to gain illegally from the Insurance Company. The claimants have to prove that the driving licence of the driver of the motorcycle was a valid one at the time of accident. The Insurance Company has also filed an additional counter affidavit wherein it has been stated that at the time of accident, the driver of the TATA 407 vehicle did not have valid licence to driver the transport vehicle, thus there is a violation of policy guidelines and the Insurance Company is not liable to pay compensation to the claimants and only the owner of the vehicle / 2<sup>nd</sup> respondent herein is liable to pay compensation.

4. The daughter of the claimant/ another injured Anbukarasi has also filed a claim petition in MCOP.No.531 of 2015. In MCOP.No.531/2015, the claimant / Anbukarasi examined herself as PW1 and Exs.P1 to P13 were marked. In MCOP.No.1991/2017, the 1<sup>st</sup> claimant / Vadivelu examined himself as PW1, one Sakthivel was examined as PW2 and marked Exs.P1 to P19. Court Exhibits C1 and C2 were also marked. On behalf of the respondent, the owner of TATA Ace, Anbarasan was examined as RW1 and 7 other witnesses were examined as RW2 to RW7 and Exs.R1 to R12 were marked.

5. On appreciation of oral and documentary evidence adduced on either side, the Tribunal has taken up both MCOP.Nos.531/2015 and 1991/2017 and vide common order dated 07.03.2024 has awarded compensation to the claimant



in MCOP.No.1991/2017, in respect of the 1<sup>st</sup> claimant /1st respondent herein as  
under:

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| Head of Compensation                                          | Amount Awarded by<br>the Tribunal (in Rs.) |
|---------------------------------------------------------------|--------------------------------------------|
| Loss of Pain and Suffering caused due to<br>grievous injuries | 65,000                                     |
| Transportation Charges                                        | 20,000                                     |
| Medical Expenses                                              | 6,61,047                                   |
| Extra Nourishment                                             | 20,000                                     |
| Attender Expenses                                             | 20,000                                     |
| Damage to Clothes                                             | 1,000                                      |
| Loss of Amenities                                             | 30,000                                     |
| Loss of Income on account of Permanent<br>Disability          | 9,43,800                                   |
| <b>Total</b>                                                  | <b>17,60,847</b>                           |

The Tribunal has also awarded compensation to the claimant in MCOP.No.531/2015 namely Anbukarasi for a sum of Rs.1,31,000/-. Aggrieved over the award passed in MCOP.No.1991 / 2017, the Insurance Company has preferred the present appeal.

6. The learned counsel appearing for the appellant would submit that the Tribunal erred in awarding Rs.9,43,800/- towards Loss of Income despite the fact that the 1<sup>st</sup> respondent is continuing his alleged profession. The Tribunal ought to have desisted to award Loss of Income consequent to permanent disability by following the principles laid down the Hon'ble Supreme Court in *Raj Kumar v. Ajay Kumar and another [2011 ACJ 1]*. The other reasons assigned by the Tribunal in support of the award are untenable.



7. The learned counsel appearing for the 1<sup>st</sup> respondent / claimant has not seriously objected to the contentions raised by the appellant.

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8. It is seen from the records that at the time of accident, the injured / 1<sup>st</sup> claimant / 1<sup>st</sup> respondent herein was aged about 53 years at the time of accident that occurred on 13.01.2015. It is relevant to note that permanent disability that had arisen from the injuries sustained, resulted in Loss of Earning capacity to the injured / 1<sup>st</sup> claimant. In the case on hand, the injured was working as a Government School Teacher and since he is working as a Government School Teacher, the award can be modified by applying the ratio laid down by the Hon'ble Supreme Court in ***Raj Kumar v. Ajay Kumar and another [2011 ACJ 1]***, wherein it was observed as under:

*“13. We may now summarise the principles discussed above:*

*(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.*

*(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability)*

*(iii) The doctor who treated an injured claimant or who*



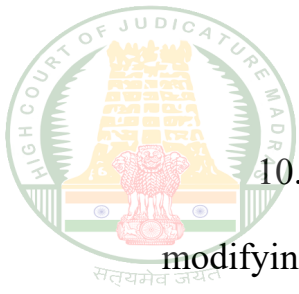
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*examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.*

*(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.”*

9. By applying the principles laid down in the aforesaid decision, in the case on hand, the injured was working as a Government School Teacher and his right leg below knee was amputated and the Medical Board assessed permanent disability of the 1<sup>st</sup> claimant as 65%. The Tribunal has taken Multiplier method since he is still working in Government School and as such, the Award of the Tribunal is modified by this Court as under in the following heads:

| Head of Compensation                                       | Amount Awarded by this Court (in Rs.) |
|------------------------------------------------------------|---------------------------------------|
| Loss of Pain and Suffering caused due to grievous injuries | 1,50,000                              |
| Transportation Charges                                     | 20,000                                |
| Medical Expenses                                           | 6,61,047                              |
| Extra Nourishment                                          | 20,000                                |
| Attender Expenses                                          | 50,000                                |
| Damage to Clothes                                          | 1,000                                 |
| Loss of Amenities                                          | 1,00,000                              |
| Loss of Income on account of Permanent Disability          | 3,25,000                              |
| Future Medical Expenses                                    | 75,000                                |
| <b>Total</b>                                               | <b>14,02,047</b>                      |



10. Accordingly, this Civil Miscellaneous Appeal stands partly allowed modifying the award dated 7.3.2024 passed in MCOP.No.1991/2017 on the file of Motor Accidents Claims Tribunal, Special Sub Court No.1, Salem to the effect that the 1<sup>st</sup> claimant / 1<sup>st</sup> respondent herein is entitled to a compensation of Rs.14,02,047/-, with 7.5% per cent interest from the date of claim petition till the date of disbursement. It is made clear that the manner of disbursement and apportionment of this modified compensation shall be carried out as per the directions passed by the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

**(N.S.K.,J.) (M.J.R.,J.)**  
**21-07-2026**

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

To  
The Motor Accidents Claims Tribunal,  
Special Sub Court No.1, Salem



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AND  
M.JOTHIRAMAN J.**

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