



C.M.A.No.3042 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2025

CORAM

THE HONOURABLE MRS JUSTICE R. KALAIMATHI

C.M.A.No.3042 of 2021

and C.M.P.No.17306 of 2021

The Branch Manager,
Reliance General Insurance Co. Ltd.,
No.73, 1st Floor, Officers lane,
Vellore – 632 001.

.. Appellant / 2nd Respondent

Vs.

1. M.Senthil

..Respondent / Petitioner

2. V.Srinivasan

..Respondent / 1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 18.10.2019 passed in M.C.O.P.No.147 of 2017 by the Motor Accident Claims Tribunal / Subordinate Court, Uthangarai.

For Appellant	: Ms.C.Bhuvanasundari
For R1	: Mr.S.P.Yuvaraj
For R2	: Notice is dispensed with

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the Award



C.M.A.No.3042 of 2021

dated 18.10.2019 passed in M.C.O.P.No.147 of 2017 by the Motor Accident Claims Tribunal / Subordinate Court, Uthangarai, by the second respondent Insurance Company.

2. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

3. The learned counsel for the appellant would contend that the Medical Board has fixed the disability as 70%, which is on the higher side and the Tribunal has taken functional disability at 40% and applied multiplier method for computing the loss of income sustained by the claimant on account of the accident. She would further contend that continuous treatment record was also not filed. For the injuries suffered, invocation of multiplier method is not warranted and sought for a change in the compensation amount awarded by the Tribunal.

4. Per contra, the learned counsel for the 1st respondent / claimant would contend that on account of the accident, the claimant suffered serious injuries and the Tribunal having taken note of the fact that the claimant would face difficulties in doing his agricultural work and milk business, rightly invoked multiplier method for grant of compensation towards disability.

5. It has come on record through the evidence of P.W.1 – M.Senthil that



due to the accident, he sustained (1) head injury – left frontal pneumococcus – (2) Type II open segmental fracture shaft of femur right, (3) Fracture right zygomatic complex, (4) Brachial plexus injury left as per the wound certificate and disability summary Ex.P2 and Ex.P3. The claimant was referred to the District Medical Board, Krishnagiri, for assessment of disability and as per Ex.C1 - Disability Certificate, his partial permanent disability was assessed at 70%.

6. Under what circumstances, multiplier method can be invoked in injury cases, the Hon'ble Supreme Court has formulated certain principles in **Raj Kumar vs Ajay Kumar** reported in **[(2011) 1 SCC 343]**. The principles have been summarised, which are given hereunder:

“(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 examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent



WEB COPY

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."

7. This Court is reminded of the fact that 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.

8. P.W1 would state that he was working as Tractor driver, agriculturalist and doing milk business. As per the Discharge Summary, injury suffered are (1) head injury, (2) Type-II open segmental fracture shaft of femur right, (3) Fracture of right cheek bone and (4) Brachial plexus injury i.e. damages to the network of nerves that connects spinal cord to the shoulder arm and hand. All four injuries put together, the Medical Board has assessed the disability at 70%. In consideration of the evidence of P.W1, the Tribunal has taken out functional disability at 40%. P.W1 would depose that after the accident, he finds it difficult to work as he did before. With these difficulties, definitely the injured would face difficulties while doing his work as a tractor driver or while doing agricultural work.



C.M.A.No.3042 of 2021

WEB COPY

9. This Court is of the considered view that due to the above said fractures / injuries - four in number, all of the injuries are serious in nature, Tribunal has taken the functional disability at 40% cannot be found fault with in the given situation. Since because continuous treatment record of the claimant is not filed, it cannot be taken that the claimant is not suffering from the disability arose out of the accident.

10. Based on the aforesaid observations and discussions, this Court does not find any infirmity or perversity in the finding of the Tribunal. This Court also does not find any good reason to upset the finding of the Tribunal.

11. In the result,

(i) In view of the aforestated narrative, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition stands closed.

(ii) The compensation awarded by the Tribunal is confirmed.

(iii) The Appellant / Insurance Company is directed to deposit the compensation amount awarded by the Tribunal i.e., **Rs.10,91,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation (excluding the period of default if any) to the credit of M.A.C.T.O.P.No.147 of 2017 on the file



C.M.A.No.3042 of 2021

of Motor Accident Claims Tribunal / Subordinate Court, Uthangarai, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimant is at liberty to withdraw the same along with interest and costs, less the amount if any already withdrawn, by making necessary cheque application before the Tribunal.

(v) The claimant is directed to pay the Court fee for the compensation amount awarded by the Tribunal, if any.

18.11.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No

Mac

Copy to

1. The Motor Accident Claims Tribunal / Subordinate Court at Uthangarai.
2. The Section Officer,
VR Section,
High Court, Madras.



WEB COPY



C.M.A.No.3042 of 2021

R. KALAIMATHI, J.

Mac

C.M.A.No.3042 of 2021

18.11.2025