



C.M.A.No.3192 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.11.2025

CORAM

THE HONOURABLE Dr.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

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The Royal Sundaram Aliance Insurance
Co. Ltd.,
Thirumalai Towers, 3rd Floor,
No.723, Avinashi Road,
Coimbatore District

.... Appellant

V.

1. V.Vigneseshvaran
S/o K.Vellinayagam
No.165 NA-AP Palaniappan Nagar,
Oddanchathiram,
Now at No.9, Maramman Koil Street,
Varadhampalayam,
Sathyamangalam Taluk, Erode District

2. S.Esudurai
S/o. Samuel
No.5/547, Krishna Nagar,
Arumugha Goundanoor,
Perur Chettipalayam, Coimbatore.

.... Respondents



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Prayer: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 19.02.2019 made in M.C.O.P.No.541 of 2015 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Sathyamangalam.

For Appellant :Mr.G.Vasudevan

For Respondents :Mr.B.Santhana Gopalakrishnan
for Mr.R.Nalliyappan – R1
R2 - set exparte

J U D G M E N T

Dr.G.Jayachandran, J.

This Civil Miscellaneous Appeal is filed by the Insurance Company being aggrieved by the quantum of compensation awarded vide award dated 19.02.2019 by the Motor Accidents Claims Tribunal (Subordinate Judge), Sathyamangalam to the claimant who had suffered amputation of his right forearm.

2. The claim was made on the premise that the vehicle bearing Registration No.TN-66-K-3669 insured with the appellant company was driven rashly and negligently by its driver near Anthiyur Sri Mahal on the



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Highways of Udumalpet to Pollachi Main Road on 28.04.2015 and dashed against the vehicle of the claimant. As a result, the claimant sustained near total amputation of right forearm and arm muscles and multiple comminuted fracture of radius, ulna and humerus.

3. The claimant was working as a priest in a temple and an astrologer, earning a sum of Rs.12,000/- per month. Due to the injury sustained in the accident, he lost his entire earning capacity besides pain and suffering. Hence, he sought a compensation of Rs.45.00 lakhs under various heads.

4. The Tribunal after considering the evidence, particularly medical evidence and the documents adduced by the claimant to substantiate his earning capacity, which are marked as Exs.P.12 to P.21 which would indicate that the claimant had certificate in Fine Arts for drawing with undergraduate degree, fixed his earning capacity as Rs.15,000/- per month notionally and applied the multiplier for the permanent disability of 65%. Accordingly, a total sum of Rs.34,80,621/- has been awarded as compensation under various heads.

5. The Insurance Company in the present appeal challenged the award on the ground that the Tribunal has fixed 65% permanent disability and also



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applied multiplier which is not in consonance with the evidence and liability. Further, the Tribunal failed to take note of the fact that the driver of the offending vehicle has no badge for goods carrier. Hence for the breach of policy condition the insured should be exonerated from indemnifying the vehicle owner. The award of Rs.1,02,621/- towards medical bill is on the higher side and there is no proper bill to substantiate the said claim.

6. Learned counsel appearing for the Insurance Company/appellant also submitted that having applied the multiplier for the disability and adding 40% towards loss of future prospects, the Court below ought not to have awarded any compensation on the heads 'pain and suffering' as well as 'loss of income during the treatment period'.

7. Learned counsel appearing for the claimant/respondent submitted that as a priest in the temple, the claimant has lost his entire income due to amputation of his right forearm. However, the Tribunal instead of awarding 100% compensation towards loss of earning had fixed only 65%. Therefore the award has to be enhanced.



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8. This Court has considered the rival submissions of both sides. The amputation of right forearm of the claimant is an undisputed fact. The educational qualification of the claimant though relied, his specific case is that his livelihood was based on his job as a priest in the village temple and as an astrologist. Both being an unorganised sector, the Tribunal has rightly fixed a sum of Rs.15,000/- per month as notional income and we find no error in it.

9. Likewise, fixation of 65% towards loss of future prospects and applying multiplier also well substantiated by evidence. The certificate given by the Association of Village Temple Poojaris which is marked as Ex.P.17 has no proof for income but only a proof of earning capacity of the claimant. Apart from his membership in the Village Temple Poojari Association, there is no indication to show that the claimant had real income as Poojari. At the same time, we also take note of the fact that the claimant is a graduate having Diploma in Teacher Training, his earning capacity is not totally impaired due to the accident. Hence, fixation of 65% and applying multiplier also found to be very reasonable. Hence, this Court finds no reason to interfere with the award passed by the Tribunal.



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Dr.G.JAYACHANDRAN, J.
and

MUMMINENI SUDHEER KUMAR,J.

10. Hence, this Civil Miscellaneous Appeal is dismissed with no order as to costs. The appellant/Insurance Company is directed to deposit the award amount with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of realisation within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any, before the Court. Upon deposit, the claimant is permitted to withdraw the award amount, less the amount, if any, already withdrawn on filing an appropriate petition before the trial Court.

(Dr.G.J.J.) & (M.S.K.J.)
05.11.2025

Index:yes/no
Internet:yes
Speaking order/non speaking order
Neutral citation:yes/no
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To
1.The Motor Accidents Claims Tribunal (Subordinate Judge),
Sathyamangalam.

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