



C.M.A.No.775 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 24.03.2025

CORAM:

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

C.M.A. No. 775 of 2025

and

C.M.P. No. 6214 of 2025

The Branch Manager,
Reliance General Insurance Company Ltd.,
No.178, II Floor, 10th Cross,
Thillai Nagar, Trichy.

... Appellant

Vs.

1.R.Gopi

2.Mythili

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 04.01.2023 made in M.C.O.P.No.160 of 2019 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court) at Tiruvarur.



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For Appellant : Mr. P. Suresh Srinivasan.

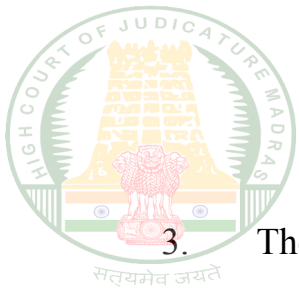
For Respondents : Mr. S.P. Yuvaraj for R1.
R2 – Exparte.

J U D G M E N T

(Delivered by Dr. A.D. Maria Clete, J)

This Civil Miscellaneous Appeal has been preferred by the appellant/insurance company, assailing the award dated 04.01.2023 passed in M.C.O.P.No.160 of 2019 by the Motor Accident Claims Tribunal (Chief Judicial Magistrate Court) at Tiruvarur. With the consent of both parties, the appeal is taken up for final disposal at the admission stage.

2. Brief Facts: On 21.12.2018, while the first respondent was walking along the left side of Sengalipuram Road, proceeding from east to west, a lorry bearing Registration No. TN 45 Y 4046, owned by the second respondent and insured with the appellant, was driven in a rash and negligent manner by its driver and collided with the first respondent, causing grievous injuries. Consequently, the first respondent filed a claim petition seeking a total compensation of Rs. 40,00,000/-.



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3. The appellant filed a counter statement, denying the averments made in the claim petition and contending that the driver of the lorry insured with the appellant did not possess a valid driving license. Consequently, the appellant asserted that it is not liable to pay any compensation and sought dismissal of the petition. The second respondent remained absent before the Tribunal and was set ex parte.

4. In support of the claim, the first respondent examined himself as PW1 and produced documentary evidence marked as Ex.P.1 to Ex.P.8. On behalf of the appellant, one witness was examined as RW1, but no documents were marked. The Disability Certificate issued by the Thiruvavarur Medical College Hospital, Thiruvavarur, was marked as Ex.C.1.

5. After meticulously examining the pleadings, oral evidence, and documentary records, the Tribunal awarded a sum of Rs. 29,43,000/- as compensation to the first respondent, directing the appellant to pay the same. Aggrieved by the said award, the appellant has preferred the present appeal.

6. Heard the parties and carefully perused the materials on record.

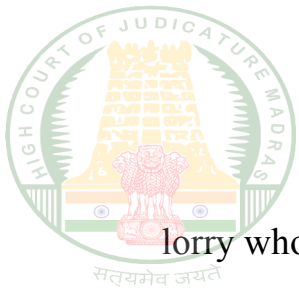


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7. The learned counsel for the appellant contended that the Tribunal erred in concluding that the accident occurred due to the negligent driving of the driver of the vehicle insured with the appellant, particularly in the absence of any eyewitness to substantiate the allegation of negligence. It was further submitted that, although the Medical Board assessed the disability at 60%, the Tribunal erroneously fixed the functional disability at 100%. The learned counsel also argued that the Tribunal erred in determining the notional income at Rs. 9,000/- per month and in adding 40% towards future prospects. It was contended that the sum of Rs. 5,40,000/- awarded towards attendant charges is excessive, as the first respondent could manage his routine activities independently with the aid of an artificial limb. In support of this contention, reliance was placed on the judgment reported in *2021 (2) TNMAC 653*. The learned counsel further submitted that the compensation awarded under the remaining heads is highly disproportionate and excessive, and therefore, sought for allowing the appeal.

8. On the other hand, the learned counsel for the first respondent submitted that the accident has occurred solely due to the negligence of the driver of the



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lorry who has driven the vehicle in a rash and negligent manner and dashed on the first respondent and an FIR has also been registered in Cr.No.468 of 2018. Hence, the award of the tribunal does not warrant any interference and sought for dismissing the appeal.

9. Upon careful examination of the records and evidence available, it is evident that the Tribunal found the accident to have occurred solely due to the rash and negligent driving of the lorry bearing Registration No. TN 45 Y 4046. The incident took place on 21.12.2018, at around 12:00 p.m., when the petitioner, while cautiously walking on the left side of Sengalipuram Road, was struck from behind by the lorry. The Tribunal concluded that the accident resulted from the reckless and negligent driving of the lorry driver, causing grievous injuries to the first respondent. The findings of the Tribunal were corroborated by the oral testimony of PW1 (the first respondent herein) and supported by documentary evidence, including the First Information Report (FIR - Ex.P1), which clearly established that the accident was caused due to the rash and negligent driving of the lorry driver. Moreover, it is pertinent to note that the insurance company did not produce any evidence to rebut the claim or to establish contributory negligence



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on the part of the first respondent. The Tribunal also observed that the appellant

failed to substantiate the contention that the first respondent contributed to the accident by being under the influence of alcohol. In this regard, the Tribunal placed reliance on the decision of the Hon'ble Kerala High Court in *Jose P.V. vs. United India Insurance Co. Ltd.* reported in 2016 (1) TN MAC 2014 (DB) (Ker). The absence of any evidence indicating negligent conduct on the part of the petitioner or any proof that alleged alcohol influence contributed to the occurrence further reinforced the Tribunal's finding on the issue of negligence.

10. The Tribunal awarded a total compensation of Rs. 29,43,000/-. In determining this amount, the Tribunal considered the first respondent's occupation as a coolie and, in the absence of documentary evidence, fixed the notional income at Rs. 9,000 per month. However, as established in *Andal v. Avinav Kannan and Others*, when documentary proof is lacking, a reasonable notional income should be considered. Given the first respondent's occupation, it would be appropriate to assess the monthly income at Rs. 14,000. The Tribunal correctly applied a multiplier of 15, in line with the guidelines established in *Sarla Verma & Others v. Delhi Transport Corporation & Another*. The Tribunal's inclusion of a 40%



addition for future prospects aligns with the principles set forth in *National Insurance Co. Ltd. v. Pranay Sethi & Others*, and thus does not warrant interference. Therefore, the disability compensation would be Rs.14,000 + 40% future prospects (Rs.5,600) = Rs.19,600 X 12 X 15 = Rs.35,28,000/-. Further, the Tribunal erred in fixing Rs.5,40,000/- towards attender charges and the same is reduced to Rs.1,00,000/-. The compensation awarded under the heads are just and reasonable and does not warrant interference.

11. Consequently, the total compensation amount is increased from Rs.29,43,000/- to Rs.37,63,000/- and the revised compensation is as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1	Disability compensation	Rs.2,268,000	Rs.3,528,000	Enhanced
2	Pain and suffering	Rs.100,000	Rs.100,000	Confirmed
3	Extra Nourishment	Rs.20,000	Rs.20,000	Confirmed
4	Transport to Hospital	Rs.5,000	Rs.5,000	Confirmed

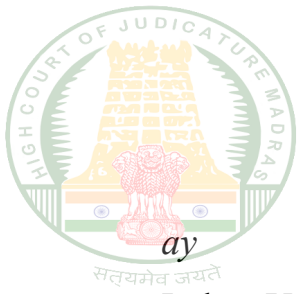


S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
5	Attender Charges	Rs.540,000	Rs.100,000	Reduced
6	Loss of amenities	Rs.10,000	Rs.10,000	Confirmed
	Total	Rs.2,943,000	Rs.3,763,000	Enhanced

12. In the result, the Civil Miscellaneous Appeal filed by the appellant is disposed of and the appellant is directed to deposit the award amount now determined by this Court, together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit (less the default period, if any) along with interest and costs, if not already deposited, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit, the first respondent is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.K., J) (A.D.M.C., J)

24.03.2025



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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court,
Tiruvarur.

2.The Section Officer,
VR Section,
High Court of Madras,
Chennai.



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