



C.M.A.No.3488 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2025

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.3488 of 2024
and C.M.P.No.29408 of 2024

The Manager,
United India Insurance Co.Ltd.,
Sillingi Buildings,
No.134, Greams Road,
Chennai - 600 006.

... Appellant

Vs.

1. Poongodi

2. B.Nowrathanmal-Shankla

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 28.03.2023 made in M.C.O.P.No.737 of 2018 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mr.S.Arun Kumar

For Respondent : Mr.K.Varadhakamaraj
No.1 - - - -



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JUDGMENT

(Judgment of the Court was delivered by J. Nisha Banu, J)

Dissatisfied with the Award passed by the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai, ['Tribunal' for short] in M.C.O.P.No.737 of 2018, dated March 28th, 2023, the respondent/ Insurance Company has preferred this Civil Miscellaneous Appeal.

2. Hereinafter, for the sake of convenience, the parties will be referred to as per their rank before the Tribunal.

3. The case of the petitioner is that on 07.07.2017 at about 13.00 hours, when the petitioner was travelling as an Occupant in Micra Car bearing Registration No.TN-13-B-0508 at Attur Bypass Road, Tennankudipalayam, near Agni Murugesan Pakkuthoppu, a Car bearing Registration No.TN-40-M-6777 driven by its driver in a rash and negligent manner came from opposite direction and hit the petitioner vehicle with high speed, due to which, the Micra Car capsized and the petitioner and others sustained grievous injuries. The driver of the Innova



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Car bearing Registration No.TN-40-M-6777 is alone responsible for the above accident. Therefore, the first respondent as legal representative of the owner and the second respondent as Insurer of the offending vehicle are jointly and severally liable to pay the compensation to the petitioner.

4. The case of the respondents is that the first respondent was set ex parte and the second respondent filed counter denying the accident. Further, the second respondent denied the age, manner of accident, avocation, etc.,

5. In order to prove the claim petition, the petitioner himself examined as P.W.1 and Ex-P.1 to Ex-P.17 and Disability Certificate, Ex-C.1 were marked. On the side of the respondent, neither any witness was examined nor any document was marked.

6. The Tribunal, based on the evidence of P.W.1, injured witness, and Ex-P.1, First Information Report, concluded that the accident had occurred only due to the rash and negligent driving of the first respondent's driver.



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7. With regard to quantum, the Tribunal, considering the Disability Certificate, has taken a sum of Rs.78,217/- as monthly notional income, applied 30% future prospects, adopted the multiplier '15' and concluded a sum of Rs.1,13,47,711/- as loss of income of the petitioner.

8. Further, the Tribunal awarded the amount as tabulated below:-

S.No.	Head	Amount
1	Towards Disability	Rs.1,13,47,711
2	Towards Pain and Sufferings	Rs.1,00,000
3	Towards Loss of earning during Treatment	Rs.2,34,651
4	Towards Medical Expenses	Rs.2,06,007
5	Towards Vehicle Damage Expenses	Rs.86,111
6	Towards Loss of Amenities	Rs.1,00,000
7	Towards Attender Charges	Rs.20,000
8	Towards Transportation Charges	Rs.20,000
9	Towards Extra Nourishment	Rs.20,000
	Total	Rs.1,21,34,480/-

Totally, the Tribunal awarded a sum of Rs.1,21,34,480/- in favour of the petitioner.



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9. Feeling aggrieved with the award, the respondent/Insurance Company preferred this appeal.

10. The learned counsel for the Insurance Company would submit that as per Ex-C.1, the petitioner suffered only 62% disability and hence, the compensation arrived based on the multiplier method is wrong. Instead of the multiplier method, based on the percentage of disability, the compensation shall be awarded. Hence, the Tribunal is wrong in adopting the multiplier method and there is no total loss of income due to the injury allegedly caused in the accident. Accordingly, he prayed to allow this appeal.

11. Per contra, the learned counsel for the respondent/claimant would submit that the petitioner suffered injury in her right knee tibial spine avulsion for which surgery was performed. Due to this injury, the petitioner is unable to perform her day-to-day activities. Hence, the Tribunal was right in adopting the multiplier method in calculating the



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compensation and there is no irregularity and infirmity in the award passed by the Tribunal. Accordingly, he prayed to dismiss the appeal.

12. This Court considered the submissions made by the learned counsel appearing on either side and perused the materials placed before this Court.

13. The petitioner is an injured person and the First Information Report was registered against the first respondent's driver and the oral evidence of P.W.1 coupled with Ex-P.1, First Information Report, supports that the accident happened due to the rash and negligent driving of the first respondent's driver. Neither any witness was examined nor any document was marked contrary to evidence already available on record. In this circumstance, this Court concludes that the finding of the Tribunal that the accident happened only due to the rash and negligent driving of the first respondent is accepted and there is no reason to deviate from it.

14. As regards the quantum, at the time of the accident, the



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petitioner was working as a Head-operations in Bactrak Private Limited and earning a sum of Rs.1,70,000/- per month. The salary certificate has been marked as Ex-P.13. As per Ex-P.13, a sum of Rs.1,08,333/- has been received by the injured person as monthly gross salary for the month of December, 2017. However, the petitioner failed to examine the author of Ex-P.13. Considering the cumulative circumstances, the Tribunal has taken a sum of Rs.78,217/- as monthly income of the petitioner.

15. Considering the nature of the injury, disablement and avocation, this Court is of the view that the petitioner suffered 30% injury. Hence, the award passed by the Tribunal is modified as tabulated below:-

S. No.	Head	Amount
1	Towards Disability (Rs.78,217 + 30% X 12 X 15 X 30/100)	Rs.54,90,833
2	Towards Pain and Sufferings	Rs.75,000
3	Towards Medical Expenses	Rs.2,06,007
4	Towards Vehicle Damage Expenses	Rs.86,111
5	Towards Loss of Amenities	Rs.1,00,000
6	Towards Attender Charges	Rs.20,000
7	Towards Transportation Charges	Rs.20,000
8	Towards Extra Nourishment	Rs.20,000



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S. No.	Head	Amount
	Total	Rs.60,17,951/-



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16. In the result, this Civil Miscellaneous Appeal is partly allowed. The Appellant/ Insurance Company shall deposit the entire compensation amount of **Rs.60,17,951/- (Rupees Sixty Lakhs Seventeen Thousand Nine Hundred and Fifty One Only)**, along with interest and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four (4) weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the claimant/first respondent is permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn. Consequently, connected Miscellaneous Petition is closed.

(J.N.B., J.) (R.S.V., J.)
21.01.2025

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To

The Motor Accidents Claims Tribunal,
II Court of Small Causes, Chennai.



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