



C.M.A.No.147 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM:

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

**CMA NO.147 OF 2025
AND
CMP NOS.1232 AND 1234 OF 2025**

The Manager
Reliance General Insurance Company Limited
Reliance Center, South Wing,
4th Floor, Opp to Western Express Highway,
Santacruz East, Mumbai,
Maharashtra – 400 055.

... Appellant /
2nd Respondent

Vs.

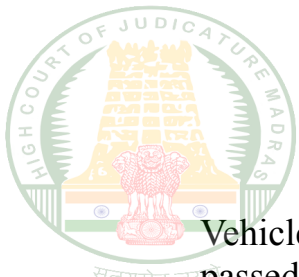
1.Sanjeevan
S/o. Subramani
Residing at D.No.1/88, Keel Street,
Bommasamudhiram Village,
Nathahalli Post, Nallampalli Taluk,
Dharmapuri District.

... 1st Respondent /
Petitioner

2.C.Chandrasanan
S/o. Chinnasamy
Residing at D.No.4, Sappatikal Quarters,
Chennai Veterinary Medical College
Hostel Campus,
Vepperi, Chennai – 600 007.

... 2nd Respondent /
1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor



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Vehicles Act, 1988, praying to set aside the Award dated August 28, 2024 passed in M.C.O.P.No.213 of 2022 on the file of the Exclusive Motor Accident Claims Tribunal, Dharmapuri.

For Appellant : Mr.P.Suresh Srinivasan
For Respondent-1 : Mr.M.Selvam

J U D G M E N T

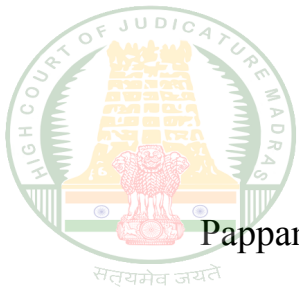
(Judgment of the Court was made by J.NISHA BANU, J.)

Feeling aggrieved by the 'Award dated August 28, 2024 passed in M.C.O.P.No.213 of 2022' [henceforth 'impugned Award' for clarity and convenience] by the 'Exclusive Motor Accident Claims Tribunal, Dharmapuri ' [henceforth 'Tribunal' for brevity], the appellant / 2nd respondent has preferred this Civil Miscellaneous Appeal.

2. For the sake of convenience, henceforth, the parties will be referred to as per their array in the Original Petition.

PETITIONER'S CASE:

3.On January 17, 2022, at 12:45 p.m., the petitioner Sanjeevan, along with one Sakthivel, were proceeding to B.S. Agraharam on a motorcycle bearing Registration No. TN38-CY-0338, which was being driven by Sakthivel. When they came near the A-Sekkarapatti–



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Pappampalayam Diversion Road, a car bearing Registration No. TN01-

AS-8285, which was coming from the opposite direction and driven at high speed in a rash and negligent manner, collided with the motorcycle. As a result of the accident, both Sakthivel and petitioner sustained injuries. Immediately, the petitioner was taken to the Government Hospital in Dharmapuri for first aid and then shifted to Ganga Hospital in Coimbatore for further treatment. He was admitted as an inpatient from January 17, 2022, to January 26, 2022. During the course of treatment, the petitioner underwent surgery on his right leg. At the time of the accident, the petitioner was 20 years old and a third-year B.Sc. Geology student. He was also a National Level Kho Kho player and had been selected to participate in the International Kho Kho game. The first respondent is the owner of the Car and the second respondent is the insurer of the Car. Therefore, the petitioner filed Original Petition claiming compensation of Rs.75,00,000/- from the respondents.

FIRST RESPONDENT'S CASE:

4. The first respondent remained absent and hence, was set *ex-parte* before the Tribunal.



SECOND RESPONDENT'S CASE:

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5.The second respondent, the Insurance Company, filed a counter denying the allegations made by the petitioner in the claim petition, including the manner of the accident. According to the second respondent, the driver of the first respondent's Car did not possess a valid driving license at the time of the accident. The vehicle records of the Car were not in order at the time of the accident. Furthermore, the rider of the motorcycle was not wearing a helmet and was riding without a valid driving license. Since the accident occurred solely due to the negligence of the rider of the motorcycle, the second respondent contended that they are not liable to pay compensation. Additionally, the petitioner's claim amount and the interest sought are excessive. Accordingly, the second respondent prayed for the dismissal of the original petition.

TRIBUNAL

6. On the side of the petitioner, petitioner examined himself as P.W.2 and Sakthivel was examined as P.W.1 and two other witnesses were examined as P.W.3 and P.W.4. and Ex-P.1 to Ex-P.19 and Ex-X.1 and Ex-X.2 were marked. On the side of the second respondent, neither any witness nor any document was marked.



7. The Tribunal, relying on the evidence of P.W.1 and P.W.2

and Ex-P.1 – First Information Report (FIR), held that the accident occurred due to the rash and negligent driving of the driver of the Car bearing Registration No.TN01-AS-8285 and awarded compensation under various heads along with interest thereon at the rate of 7.5% per annum from the date of presentation of the petition till the date of realization and directed the second respondent /insurance company to deposit compensation, as tabulated hereunder:

Sl.No.	Head	Amount Rs.
1	Compensation for loss of earning capacity	21,77,300.00
2	Compensation for disability	-
3	Pain and Suffering	1,00,000.00
4	Extra nourishment	20,000.00
5	Attender charges	15,000.00
6	Loss of income	1,08,000.00
7	Damages to clothes	5,000.00
8	Future medical expenses	--
9	Medical expenditure	5,02,300.00
10	Loss of Amenities	75,000.00
11	Transportation charges	10,000.00
12	Grand Total	30,12,600.00
13	Less 10% towards contributory negligence	3,01,260.00
	Total	27,11,340.00



8. Challenging the quantum of compensation awarded by the

Tribunal, the appellant / 2nd respondent has preferred this Civil Miscellaneous Appeal.

ARGUMENTS

9. This Court has heard the submissions made on either side and perused the materials available on record.

10. Mr.P.Suresh Srinivasan, learned Counsel appearing for the appellant / insurance company would argue that the Tribunal computed the compensation by adopting multiplier method. In addition to that, the Tribunal awarded a sum of Rs.1,08,000/- as loss of income which is not in consonance with law. Hence, the Award passed by the Tribunal is to be interfered by this Court.

11. In response to the above argument, Mr.M.Selvam, learned Counsel appearing for the first respondent would contend that Section 166 of the Motor Vehicles Act, 1988 is a social beneficial legislation and the petitioner was admitted in hospital for considerable period of time. Considering the said fact, the Tribunal awarded a sum of Rs.1,08,000/- as loss of income. There is no irregularity or illegality in awarding compensation under the head 'loss of income' while computing



compensation by adopting multiplier method. Accordingly, he prayed to dismiss the appeal.

12. This Court has considered the submissions made on either side.

13. Due to the accident, the petitioner sustained injuries and took treatment from January 17, 2022 and January 26, 2022 at Ganga Hospital, Coimbatore. The Medical Board assessed 40% disability. Considering the nature of the injuries, the Tribunal rightly adopted multiplier method and quantified the loss of earning capacity at Rs.21,77,300/- by adopting multiplier method. It is to be noted that the petitioner is entitled to interest for the said amount from the date of filing of the petition. However, while adopting multiplier method, a separate award under the head 'loss of income' is inadmissible in law. Hence, the said portion of award is liable to be set aside. Accordingly, the compensation awarded under the head 'loss of income' is set aside and the petitioner is entitled to a sum of Rs.26,03,340/- (Rupees Twenty Six Lakhs Three Thousand Three Hundred and Forty Only) as compensation from the second respondent / insurance company and the modified award reads as follows:



Sl.No.	Head	Amount Rs.	Amount Rs.	Status
1	Compensation for loss of earning capacity	21,77,300.00	21,77,300.00	Confirmed
2	Compensation for disability	--	--	--
3	Pain and Suffering	1,00,000.00	1,00,000.00	Confirmed
4	Extra nourishment	20,000.00	20,000.00	Confirmed
5	Attender charges	15,000.00	15,000.00	Confirmed
6	Loss of income	1,08,000.00	--	Rejected
7	Damages to clothes	5,000.00	5,000.00	Confirmed
8	Future medical expenses	--	--	Confirmed
9	Medical expenditure	5,02,300.00	5,02,300.00	Confirmed
10	Loss of Amenities	75,000.00	75,000.00	Confirmed
11	Transportation charges	10,000.00	10,000.00	Confirmed
12	Grand Total	30,12,600.00	30,12,600.00	Confirmed
13	Less 10% towards contributory negligence	3,01,260.00	3,01,260.00	Confirmed
	Total	27,11,340.00	26,03,340.00	Reduced

14. Therefore, the appellant / Insurance Company is directed to deposit the reduced award amount of Rs.26,03,340/- (Rupees Twenty Six Lakhs Three Thousand Three Hundred and Forty Only) along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, to the credit of M.C.O.P.No.213 of 2022 on the file of the Exclusive Motor Accident Claims Tribunal, Dharmapuri, less the amount if any already deposited, within a period of eight weeks from the date of receipt of copy of this Judgment. On such deposit being made, the



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petitioner / 1st respondent is entitled to withdraw the same by filing proper application. Further, the petitioner is entitled for proportionate costs and Advocate fees as per Rules.

Result :

15. In the result, this Civil Miscellaneous Appeal filed by the appellant / insurance company is partly allowed. Consequently, connected Civil Miscellaneous Petitions are closed.

[J.N.B., J.]

[R.S.V., J.]

29.01.2025

Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No
TK

To

The Exclusive Motor Accident Claims Tribunal
Dharmapuri.



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AND
R.SAKTHIVEL, J.

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