



C.M.A.No.179 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2025

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

C.M.A.No.179 of 2025
and C.M.P.No.1350 of 2025

The Cholamandalam MS General
Insurance Company Limited,
Rep. by its Branch Manager,
Old No.319/New No.157,
Shawallace Building, 2nd Floor,
Thambuchetty Street,
Chennai - 600 001.

... Appellant

Vs.

1. Sundaraganapathy
2. Ram Kamal
3. Nazarious

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the order of Award dated 02.08.2024 passed in M.A.C.T.O.P.No.196 of 2019 on the file of the Motor Accidents Claims Tribunal, Sub Court, Karaikal.

For Appellant : Mr.S. Srinivasan

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JUDGMENT

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

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Challenging the Award passed by the Motor Accident Claims Tribunal (Sub Court), Karaikal, ['Tribunal' for short] in M.A.C.T.O.P.No.196 of 2019, dated 02.08.2024, the appellant/Insurance Company has preferred this Civil Miscellaneous Appeal.

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

3. According to the claimant, on 21.01.2015 at 22.50 hours, while the petitioner was riding his Bajaj Discover motorcycle bearing Registration No.PY-02-J-4011 along with pillion rider by name Gajendiran at Bharathiyar Main Road, near new RTO Check Post, Kuppuchettichavadi, Poovam, Kottucherry from North to South direction, the first respondent who had driven the Mahindra Maxi cab carriage vehicle bearing Registration No. TN-51-A-7324 on the opposite direction in a rash and negligent manner, hit on the petitioner's vehicle and the petitioner had sustained grievous injuries. The first respondent/claimant filed the claim petition in M.A.C.T.O.P.No.196 of 2019



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on the file of the Motor Accident Claims Tribunal, Karaikal, claiming compensation of Rs.1,90,00,000/-.

4. The Tribunal after appreciating the evidence on record, awarded a sum of Rs.18,52,954/- as compensation to the claimant. Aggrieved over the same, the Insurance Company has filed the present Appeal.

5. The learned counsel for the appellant/Insurance Company would state that the Tribunal erred in holding that the alleged accident was caused due to the rash and negligent driving of the driver of the Van bearing Registration No. TN-51-A-7324, insured with the appellant. He would further state that the Tribunal erred in accepting the disability certificate issued by the Medical Board for the injuries sustained by the claimant, which is on the higher side. He would further submit that the Tribunal erred in applying the multiplier method to arrive at the loss of income considering the nature of injuries. He would further submit that the Tribunal erred in awarding a sum of Rs.8,26,954/- towards medical expenses when the original medical bills were not produced before the Tribunal. Therefore, he submits that the total compensation of Rs.18,52,954/- under various heads is unsustainable and the same is liable to be interfered with.



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6. The appeal is taken up for final disposal at the admission stage itself, since the disposal of this case will not affect the respondents in any manner.

7. Before the Tribunal, in order to prove the claim petition, the claimant/injured has examined himself as P.W.1, and Ex-P.1 to Ex-P.21 were marked. On the side of the respondents, SHO, Traffic Police Station, T.R.Pattinam, was examined as R.W.1 and Ex.X1 was marked. The disability certificate received from the Medical Board was marked as Ex.C1.

8. The Tribunal, based on the oral and documentary evidences, awarded the compensation as tabulated below:-

S.No.	Head	Amount
1	Future loss of earning (50% functional disability)	Rs.9,00,000
2	Loss of amenities	Rs.25,000
3	Pain and sufferings	Rs.25,000
4	Attender expenses	Rs.25,000
5	Transport expenses	Rs.25,000
6	Nutrition expenses	Rs.25,000
7	Damage to the dress	Rs.1,000
8	Medical Bills	Rs.8,26,954
	Total	Rs.18,52,954



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9. On the aspect of negligence is concerned, before the tribunal, the victim/claimant (P.W.1) deposed that the first respondent had driven the Mahindra Maxi Cab carriage bearing Registration No. TN-51-A-7324 on the opposite direction in a rash and negligent manner and hit against the petitioner. As a result, he sustained grievous injuries. The Tribunal concluded that the evidence of P.W.1 is corroborated by Ex.P1 (F.I.R) and Ex.P20 - Charge sheet in Cr.No.14/2015 under Section 279 and 338 of I.P.C. registered with Traffic Police Station, Karaikal, against the first respondent, who had driven the Van bearing Registration No. TN-51-A-7324. Hence, the Tribunal held that the version of P.W.1, who is an eye-witness as well as an injured person, remains creditworthy. Thus, the Tribunal fixed the negligence on the part of the driver of the Van bearing Registration No. TN-51-A-7324, insured with the appellant, which in our opinion is proper.

10. In respect of disability certificate issued by the Medical Board for the injuries sustained by the claimant, is concerned, the same is based on the medical records. As per the medical records produced by the claimant before the tribunal, it is seen that the petitioner sustained the following injuries in the



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accident:-

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The Discharge summary-Ex.P6 issued by the Fortis Malar Hospital, Adayar, Chennai, coupled with the disability certificate/Ex.C1 issued by the Medical Board, Karaikal, would establish that the injuries sustained by the claimant are grievous and permanent injuries. The Disability Certificate/Ex.C1 issued by the Medical Board would establish that the claimant has sustained physical impairment of 78% at his right leg, due to implant failure and non-union of distal femur fracture. In the light of the said medical records, the Tribunal assessed 78% permanent disability holding that the claimant can perform only lesser activities and he has been incapacitated due to the injuries sustained in the accident. The Tribunal thus taken 50% as functional disability and awarded compensation accordingly, which does not require any interference by this Court.

11. For the aforesaid reasons, we are of the view that the compensation awarded by the Tribunal is just and reasonable and we do not find any ground to interfere with the award passed by the Tribunal. Accordingly, this Civil



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Miscellaneous Appeal is dismissed. No costs. The appellant / Insurance

WEB COPY Company shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the claimant / injured / first respondent herein, forthwith, through RTGS. Consequently, the connected Miscellaneous Petition is closed.

(J.N.B., J.) (R.S.V., J.)
23.01.2025

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To

The Motor Accidents Claims Tribunal,
(Sub Court), Karaikal.



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