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C.M.A.No.2373 of 2022 and C.M.P. No.18492 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	04.06.2025
Pronounced on	03.07.2025

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.2373 of 2022 and
C.M.P. No.18492 of 2022

The Branch Manager,
The New India Assurance Company Limited,
No.33/A 2nd Floor 1st Stage,
P.B. No.3883, Indira Nagar,
Bangalore 38

...Appellant

Vs.

1. Dharman

2. Suresh Kumar

...Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act,1988, praying to set aside the decree and judgment passed in M.C.O.P. No.853 of 2013 dated 09.07.2014 on the file of the Special Sub Judge, Motor Accident Claims Tribunal, Krishnagiri.

For Appellant : Mr.R. Neethi Perumal

For Respondents : No Appearance



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JUDGMENT

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The present appeal is directed against the Award dated 09.07.2014 of the learned Special Sub Judge, Motor Accident Claims Tribunal, Krishnagiri, in M.C.O.P. No.853 of 2013.

2. For the sake of convenience, the parties are referred to as per their ranking in the Tribunal

3. Briefly stated, on 18.05.2008 at about 2.30 p.m., the claimant was travelling as a pillion rider in TVS Star sport motorcycle bearing No.TN-24-D-4793 which was driven by one Sikanthar slowly and cautiously observing the traffic rules. At that time, near Nackenkottai, the car bearing Registration No.KBV 7065 belonging to the first respondent and insured with the appellant/Insurance Company driven by its driver in a rash and negligent manner which came in the opposite direction dashed against the TVS Star Sport Motorcycle in which the claimant was travelling, as a result of which, the claimant and the rider of the said vehicle fell down and sustained injuries and they were immediately taken to the Government Hospital, Krishnagiri,



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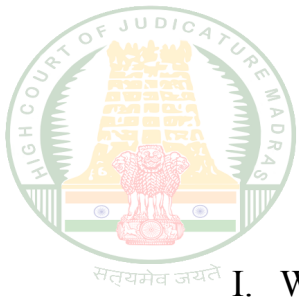
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and after first aid the claimant was taken to the St. Johns Medical College Hospital, Bangalore for further treatment.

4. According to the claimant, the rash and negligent driving of the driver of the car bearing Registration No.KBV 7065 was the cause of the accident and that since the said car was insured with the second respondent/appellant, the New India Assurance Company Limited, Bangalore, the owner and the insurer are jointly and severally liable to pay compensation to him.

5. The appellant/Insurance Company contended that the accident took place only due to the negligent act of the rider of the two wheeler. Therefore, the appellant/Insurance Company is not liable to pay compensation.

6. The Tribunal framed the following points for consideration.



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I. Whether the accident took place due to the rash and negligent driving of the driver of the 1st respondent vehicle?

II. Whether the respondents are liable to pay the compensation?

7. The Tribunal, after analysing the evidence on record, came to the conclusion that the accident took place due to the rash and negligent driving of the driver of the 1st respondent vehicle and held that the owner of the car and the insurer are jointly and severally liable to pay compensation of Rs.4,65,780/- to the claimant together with interest at the rate of 6% per annum from the date of the petition till the date of realisation.

8. Through this appeal, the Award of the Tribunal has been challenged on two grounds, namely, the alleged accident has occurred due to the negligence of the driver of the two wheeler without proper license and the next ground is that the compensation awarded by the Tribunal is excessive.

9. The learned counsel for the Insurance Company submits that the Tribunal has erred in fixing the monthly income of the claimant as Rs.5,000/-



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without any proper evidence and that the claimant has not suffered any permanent disability due to the said accident and therefore, applying multiplier method for awarding loss of earning capacity is not justifiable. His further contention is that the compensation awarded under other heads such as loss of amenities and enjoyment of life and attender charges is unjust and disproportionate with regard to the disability suffered by the claimant.

10. Despite notice, there is no representation on the side of the respondents.

11. The alleged accident is established by the claimant by oral and documentary evidence. There is no contra evidence with regard to the occurrence of accident. As alleged by the claimant, but for rash and negligent driving of the vehicle the accident would not have taken place. Therefore, the findings recorded by the Tribunal is sustained. In these circumstances, the only issue which remains for adjudication before this Court is quantum of compensation payable to the claimant/1st respondent. From the perusal of Ex.P2 Accident Register issued by the Government Head Quarters Hospital,



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Krishnagiri, this Court finds that the claimant had suffered the following injuries.

- I. Open wound have exposed 6x4 cm over left foot.
- II. Abrasion 8x2 cm over right foot.
- III. Laceration 4x2 cm over left side of fore head.
- IV. Laceration over right side of chin 1x1 cm.
- V. Abrasion below the nose 2 x1 cm.
- VI. Swelling over right index finger.
- VII. Abrasion over left elbow.

Ex.P3 wound certificate issued by St. Johns Hospital, Bangalore, reveals the following injuries sustained by the claimant/1st respondent.

- i. Lacerated wound over the dorsum of both feet, exposing under both muscles, bones, tendons left and skin on right side.
- ii. Sutured lacerated wound over the forehead, foot and nose, right side of chin.
- iii. Multiple abrasions over face and right hand.

Injury No. 1 and 2 are grievous in nature.



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12. The specific contention of the learned counsel for the appellant is that the claimant has not suffered any permanent disability due to the said accident and therefore, the Tribunal erred in applying multiplier method for awarding loss of earning capacity.

12.1. In cases of permanent disability due to motor vehicle accident, the Motor Accident Claims Tribunal is generally justified in applying multiplier method to calculate compensation. While the disability percentage is a key factor, the Tribunal should also consider other elements like victim's age, income and the nature of injury to determine a fair and just compensation. The multiplier method is a common approach used to estimate the loss of future earnings due to permanent disability. It involves multiplying the victim's annual income by a factor (multiplier) that reflects their age and expected working life. The percentage of disability assessed by a Medical Board is an important piece of evidence, but, it is not a sole determinant of compensation. The Tribunal has the discretion to assess the over all impact of disability on the victim's earning capacity. This includes factors beyond the percentage of disability, as stated above, such as victim's age, occupation and



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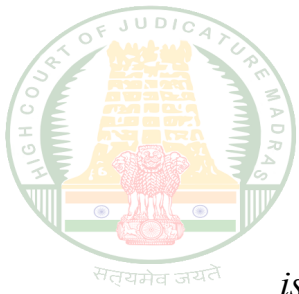
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potential for future income loss. The goal of the Tribunal is to award just compensation, which means ensuring that the victim is adequately compensated for his/her loss, both past and future. This may involve applying multiplier method even with a relatively lower disability percentage, especially if the injury significantly impacts the victim's ability to earn a living. Each case is assessed based on its unique facts and circumstances.

12.2. This Court is also conscious of the fact that the object of the act is ordering of just compensation. The Hon'ble Supreme Court in ***Raj Kumar vs Ajay Kumar*** reported in ***[(2011) 1 SCC 343]*** has elaborately dealt with under what circumstances, the multiplier method in injury cases may be invoked. The Hon'ble Supreme Court has also summarized the principles as follows:

“(i) All injuries (or permanent disabilities arising from the percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity.

(ii) To put it differently, the percentage of loss of earning capacity



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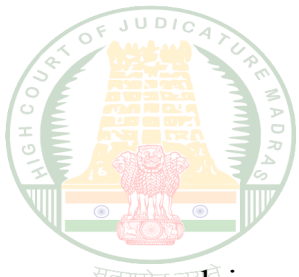
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is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).

(iii) The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.

(iv) The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors."

Therefore, the Permanent Disability may result in different percentage of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors suffered by the



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claimant.

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12.3. To assess the quantum of compensation to be awarded, this Court has to assess whether the permanent disability caused has any adverse effect on the earning capacity of the injured. In the present case, the injured was a mechanic and the fracture on the foot would result in higher percentage of disability for a person like the claimant carrying physical work.

12.4. In the present case, the Medical Board has assessed permanent disability of the claimant as 30%. The Tribunal also accepted the disability percentage recommended by the Medical Board by considering all relevant factors to arrive at a fair and just compensation amount. Therefore, the Tribunal is justified in invoking multiplier method considering the evidence on record and nature of injury. The Tribunal has rightly applied the multiplier method which warrants no interference by this Court.

13. In the result, the Civil Miscellaneous Appeal stands dismissed.
No costs. Consequently connected miscellaneous petition is closed.



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03.07.2025

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

To

1. The Special Sub Judge, Motor Accident Claims Tribunal, Krishnagiri.

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



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K.GOVINDARAJAN THILAKAVADI, J.

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Pre-delivery Judgment made in

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