



CMA (MD) No. 397 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.11.2025

CORAM

**THE HONOURABLE MS.JUSTICE R. POORNIMA**

**CMA(MD) No.397 of 2010 and M.P(MD).No.2 of 2010 and  
M.P(MD).No.1 of 2010 in Cros. Obj (MD) SR.No.19783 of 2010**

United India Insurance Company Limited,  
rep. by its Manager, Nagercoil,  
Nagercoil village,  
Agasteeswaram Taluk,  
Kanniyakumari District.

: Appellant / 3<sup>rd</sup> respondent

Vs

1.Johny (died)

: Respondent 1 / petitioner

2.Dharmaraj

3.Kumaran Fishnets

: Respondents 2&3/ Respondents 1 & 2

4.M.Lazer

5.Bajaj Allianz General Ins Co. Ltd.,  
Kumari Associate, 178 K.P. Building,  
K.P. Road, Nagercoil,  
Agasteeswaram Taluk,  
Kanniyakumari District.

: Respondents 4&5/ Respondents 4 & 5

6.N.Johnson

7.Reeta Rathina Kumari

8.Anish

9.Nesa Mahiba

: Respondents 6 to 9



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(respondents 6 to 8 are impleaded as LR's of the deceased R1 as per the order of this Court, 04.01.2024 made in CMP(MD).Nos.131 of 2024 and 11979 of 2018)

(9<sup>th</sup> respondent is also impleaded as LR of deceased R1 dated 04.01.2024 made in CMP(MD).Nos.131 of 2024 and 11979 of 2018)

**Prayer in CMA(MD).No.397 of 2010:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the order and decree, dated 14.05.2009 passed in M.A.C.T.O.P. No.18 of 2008 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate Court), Nagercoil.

**Prayer in MP(MD).No.1 of 2010 in Cross Objection (MD) Sr.No.19783 of 2010:** This petition is filed to exempt from paying the Court fees in Cross Objection (MD) SR.No.19783 of 2010.

For appellant in CMA(MD) No. 397 of 2010  
and 1<sup>st</sup> respondent in M.P(MD).No.1 of 2010  
Cros. Obj. (MD) SR.No.19783 of 2010 : Mr.A.S. Mathialagan

For respondents 6 to 8 in  
CMA(MD).No. 397 of 2010 : Mr.N.Sudhagar Nagaraj

For 9<sup>th</sup> respondent in  
CMA(MD).No. 397 of 2010 : Mr. S. Suresh Manickam



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**JUDGMENT**

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These Civil Miscellaneous Appeal has been filed against the order and decree, dated 14.05.2009 passed in M.A.C.T.O.P No.18 of 2008 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate Court), Nagercoil.

2. For the sake of convenience, the ranks of the parties are referred to as per the award passed by the Tribunal.

3. The case of the petitioner is that on 19.09.2007 at about 8.30 p.m, while the petitioner proceeding from East to West on Nagarcoil – Colachel road drove the motorcycle bearing Registration No.TN 74 L 2112, the 1<sup>st</sup> respondent drove the van bearing Registration No.TN 47 J 8533 in a rash and negligent manner and dashed against the vehicle driven by the petitioner. As a result of the accident, the petitioner sustained injuries to his forehead, nose, upper lip, and left leg. He was initially treated at Asaripallam Medical College Hospital and thereafter shifted to Jayasekaran Hospital, Ananthapuri Hospital and Research Institute, and subsequently admitted for further treatment at Christian Medical College, Vellore. During the course of treatment, the petitioner underwent multiple surgeries including femur shaft fixation, radius surgery,



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maxilla surgery, tracheotomy, ENT procedures, and replacement of missing teeth. Subsequently, he lost his speech. Hence, the petitioner claimed a sum of Rs.50,00,000/- as compensation in M.A.C.T.O.P No.18 of 2008 on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate Court), Nagercoil.

4. The 3<sup>rd</sup> respondent / appellant filed counter disputing the liability and contended that the compensation claimed is exorbitant.

5. During the trial, on the side of the petitioner, 6 witnesses were examined as P.W.1 to P.W.6 and 36 documents were marked as Exs.P1 to P36. On the side of the respondents, no oral or documentary evidence was let in.

6. The Tribunal, upon considering the pleadings and the oral and documentary evidence, came to the conclusion that the accident occurred solely due to the rash and negligent driving of the 1<sup>st</sup> respondent and awarded a sum of Rs.16,64,510/- as compensation.

7. Aggrieved over the same, the present Civil Miscellaneous Appeal has been filed by the appellant / Insurance Company challenging the quantum of compensation awarded by the Tribunal.



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8. The learned counsel appearing for the appellant / Insurance Company submitted that the Tribunal erred in accepting the disability of the claimant at 75% permanent disability. He further contended that the award of Rs.10,71,000/- towards loss of income and loss of earning capacity is unsustainable in law. He further contended that the Tribunal failed to properly assessed the nature of injury, the period of treatment and evidence on record while arriving at the said award. He further contended that P.W.3, the Orthopaedician, assessed the disability at 60% as partial disability, and P.W.4, the ENT Specialist, assessed the disability at 75% without clearly mentioned whether it was permanent or partial. However the Tribunal fixed the disability at 75% as permanent disability without any base.

9. He further submitted that the fixation of monthly income at Rs. 7,000/- was without any basis and that the Tribunal ought to have adopted only a notional income. Hence, he prayed for reduction of compensation.

10. Heard the learned counsel appearing on either side and perused the materials available on record.



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11. The respondent Counsel submitted that Ex.P12, the disability certificate, clearly indicates that the claimant sustained severe head injuries, was placed on ventilator support, underwent tracheotomy, permanently lost his speech, and the disability was assessed at 75%. It was further submitted that the claimant was an Engineering student who had completed his course and could have perused higher studies and an opportunity of earning a higher income. However due to the loss of speech and severe injuries sustained, he is unable to pursue further education and employment and his marital prospects have also been adversely affected. On appreciation of the entire evidence, conclusion arrived by the Tribunal is just and reasonable compensation, and does not warrant interference.

12. He further stated that P.W.3 to P.W.5, the Doctors who treated the claimant, verified the medical records and deposed that the claimant sustained serious injuries all over his body, permanently lost his speech, now dependent on artificial aids.

13. On perusing the records, which reveals that the claimant is an young Engineering student, who passed in First Class. Due to the injuries sustained by him in the accident, he was admitted in various hospitals and



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underwent treatment and several surgeries. He has totally lost his speech and P.W.4 issued certificate certifying that he has suffered 75% permanent disability. Further it is also established that due to injuries, he is unable to move his jaw and facial muscle. The claimant, totally lost his speech and unable to communicate with others and he lost his future prospectus of education, avocation and marital. The Tribunal awarded just compensation based on the medical records and evidence, and in accordance with the guidelines laid down by the Hon'ble Supreme Court and the provisions of the Motor Vehicles Act which does not require any interference and the appeal is liable to be dismissed.

14. In the result, this Civil Miscellaneous Appeal is dismissed. Since the steps have not been taken, Cross Objection filed by the petitioner is dismissed at the SR stage itself.

15. The appellant/Insurance Company is directed to deposit the entire award amount along with proportionate interest and costs to the credit of MACOP.No.18 of 2008 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Nagercoil within a period of eight weeks from the date of receipt of a copy of this judgment, after deducting any amount already deposited. On such deposit, the Respondents 6-9/ LR's of the claimant



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are permitted to withdraw their respective shares as per the apportionment fixed by the Tribunal, on filing necessary applications before the Tribunal concerned.

No costs. Consequently, connected Miscellaneous Petitions are closed.

**13.11.2025**

trp

To

1. The Motor Accidents Claims Tribunal,  
Chief Judicial Magistrate Court,  
Nagercoil.
2. The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**R. POORNIMA, J.**

Trp

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