



C.M.A(MD)No.1770 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.11.2025

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THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A.(MD)No.1770 of 2013

M.Palanisamy

: Appellant/Petitioner

Vs.

1.R.Subramaniam

2.The Manager,

The Oriental Insurance Company Limited,

No.90A, Thuraiyur Road,

Namakkal

(R1 set exparte before the Tribunal

Hence notice may be given up

against the first respondent)

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal and modify the judgment and decree of the Motor Accidents Claims Tribunal (Additional Subordinate Judge) Karur in M.C.O.P.No.202 of 2011, dated 22.02.2013 by enhancing the award amount to the appellant with proportionate interest.

For Appellant : Mr.M.Karthikeya Venkitachalapathy

For R2 : Mr.C.Karthik



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JUDGMENT

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Challenging the award, dated 22.02.2013 passed in M.C.O.P.No.202 of 2011 by the Motor Accident Claims Tribunal (Additional Subordinate Judge) Karur, this Civil Miscellaneous Appeal is preferred by the Appellant-claimant.

2. Brief facts of the petition filed by the claimant before the Tribunal are as follows:-

On 10.09.2011 at about 7.45 p.m., when the claimant was travelling in his bullock cart from EID Parry Sugar Factory, Pugalur, on Karur - Velur main road on the extreme left side from the East to West, the driver of KCR bus bearing Reg.No.TN-47-W-1991 drove the same from west to east in a rash and negligent manner and dash against the petitioner's bullock cart near Pugalur four roads near EB Office. As a result of which, the petitioner was thrown away and sustained grievous injuries over his chest and all over body. Immediately, he was taken to Velayuthampalayam Government Hospital and then to Amaravathy Hospital, Karur. He incurred medical expenditure of Rs.10,000/-. At the time of accident, the petitioner was aged about 60 years and was riding his bullock cart for hire and by also doing agriculture work and earned



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Rs.10,000/- per month. Further, the bullocks which were worth more than Rs.45,000/- also sustained multiple grievous injuries. The petitioner had spent more than Rs.10,000/- for the injuries sustained by the bullock in the accident. Cart was also damaged to the tune of Rs.20,000/-. The accident was occurred due to the rash and negligent driving of the bus, as such the respondents 1 and 2 being the owner and the insurer are jointly and severally liable to pay compensation of Rs.1,00,000/- to the claimant. Therefore, the claim petition is filed.

3. On contest, the Tribunal, based on the evidence of P.W.1 and P.W.2 doctor and filing of Ex.P3, Ex.P7 and Ex.P8 wound certificates, Ex.P10 disability certificate and ex.P11 X-ray that the claimant has sustained injuries over his right chest, right forearm and right wrist and there was a fracture in the 5th rib on his right side and Ex.P9 bill for Rs.9,600/- towards repairing of the cart damaged in the accident, found that the accident occurred only due to the rash and negligent driving of the driver of the bus and awarded the compensation of Rs.60,000/- (Rupees Sixty Thousand only) to the appellant-claimant.



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4. Aggrieved over the quantum of compensation, the appellant-claimant filed the present appeal.

5. Heard Mr.M.Karthikeya Venkitachalapathy, learned Counsel for the appellant-claimant and Mr.C.Karthik, learned Counsel for the second respondent -Insurance Company and perused the materials available on record.

6. The first respondent/owner of the offending vehicle remained exparte before the Tribunal and hence, notice to him is dispensed with, in view of the Full Bench judgment of Madhya Pradesh High Court in *Mrs.Jamunabai v. Chhote Singh* reported in *I (2004) ACC 190 (FB)*.

7. The Tribunal, based on the evidence of P.W.1 and Ex.P.1- FIR, Ex.P2 rough sketch and Ex.P4 MVI report, rightly came to the conclusion that the accident occurred only due to the rash and negligent driving of the driver of the first respondent and the said vehicle was insured with the second respondent Insurance Company. Therefore, the Tribunal directed the respondents 1 & 2 to pay the compensation jointly



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and severally to the claimant. Hence, the said finding, based on evidence, cannot be interfered with.

8. It is seen that as per Exs.P10 & P11 a Disability Certificate and X-ray respectively, the appellant-claimant due to the accident sustained permanent disability at 15%. The Tribunal, taking into consideration the fact that the appellant-claimant recovered from the injuries, determined the disability at 15% took a sum of Rs.2,000/- (Rupees Two Thousand only) for per percentage for such disability and awarded a total sum of Rs.30,000/- (Rupees Thirty Thousand only) ($15\% \times 2,000 = 30,000$) which is proper.

9. The Tribunal has awarded a sum of Rs.10,000/- towards damages to the cart and bullocks. However, the award is on the lower side. Therefore, this Court enhanced the said amount to Rs.15,000/- (Rupees Fifteen Thousand only) in the place of Rs.10,000/- for the damages to the cart and bullocks. Except the above, other heads are confirmed.



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10. The rate of interest awarded by the Tribunal at 7.5% per annum is confirmed.

11. In view of the settled position of law, this Court modifies the award of the Tribunal by enhancing the compensation, as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For permanent disability(15%)	30,000	30,000	confirmed
2.	Loss of income	9,000	9,000	confirmed
3.	For pain and sufferings	5,000	5,000	confirmed
4.	Extra n nourishment	3,000	3,000	confirmed
5.	Transport to hospital	3,000	3,000	confirmed
6.	Damages to the cart and bullocks	10,000	15,000	enhanced
	Total	Rs.60,000	Rs.65,000	By enhancing a sum of Rs.5,000/-

12. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from Rs.60,000/- (Rupees Sixty Thousand only) to a sum of **Rs.65,000/-** (Rupees Sixty Five Thousand only) along with interest at the rate of 7.5% per annum from the date of petition till



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date of realisation and proportionate costs;

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(ii) The second respondent-Insurance Company is directed to deposit the entire award amount namely, Rs.65,000/- along with accrued interest and costs, less the amount already deposited, if any, to the credit of M.C.O.P.No.202 of 2011, on the file of the Motor Accidents Claims Tribunal - cum – Additional Subordinate Judge, Karur, within a period of **eight weeks** from the date of receipt of a copy of this judgment;

(iii) On compliance of payment of additional Court Fees, if any, by the claimant, the claimant is permitted to withdraw the award amount by filing any formal petition before the Tribunal along with accrued interest and costs.

(iv) In the facts and circumstances of the case, there shall be no order as to costs.

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Index : Yes / No
Internet : Yes / No
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WEB COPY To,

- 1.The Motor Accidents Claims Tribunal
(Additional Subordinate Judge) Karur
- 2.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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R.POORNIMA, J.

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