



C.M.A(MD)NO.2051 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED :25.10.2025

CORAM:

THE HON'BLE MS JUSTICE R.POORNIMA

C.M.A(MD)No.2051 of 2013

and

C.M.P(MD)No.11036 of 2024

1.Laxmi

2.Narayanan

3.Geetha

4.Arul selvi

5.Amutha

(Appellants 2 to 5 are brought on record as Lrs of the deceased sole appellant as per order of this Court made in C.M.P(MD)Nos. 10529 to 10531 of 2024 in CM.A(MD)No.2051 of 2013, dated 28.8.2024)

... Appellants/Claimants

.Vs.

1.A.Asaraf

2.Gobinathan Nair

3.The Oriental Insurance Company Limited,
Thodupuzha, Kerala State,

1/10



C.M.A(MD)NO.2051 of 2013

Branch Office at DDJ Centre,
Opposite to Vadasery Bus Stand,
Vadasery, Nagercoil ,
Kanyakumari District.

... Respondents

PRAYER:Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree made in M.C.O.P.No.6 of 2012, dated 30.1.2013, on the file of the Motor Accidents Claims Tribunal/Special Court for Forest Offence Cases, Nagercoil, Kanyakumari District.

For Appellant : M/s.A.Elis Chitra Devi

For Respondents : No appearance
1 and 2

For Respondent-3 : Mr.C.Ramachandran

JUDGMENT

-

This Civil Miscellaneous Appeal has been filed against the judgment and decree made in M.C.O.P.No.6 of 2012, dated 30.1.2013, on the file of the Motor Accidents Claims Tribunal/Special Court for Forest Offence Cases, Nagercoil, Kanyakumari District.

2The case of the appellants/claimants in nutshell is that:

On 2.9.2011 at about 9.50 a.m., when deceased first appellant



C.M.A(MD)NO.2051 of 2013

was walking with her grand daughter namely Arul Selvi in the north-south direction in Nagercoil-Tirunelveli National Highways Road along the left side, a car bearing Registration NO.KL 01 AY 2449 came from the same direction hit against the claimant. As a result, the claimant(now deceased) fell down and sustained injuries on her left leg, she was immediately taken to Manuel Hospital, where she underwent surgical treatment and subsequently discharged on 12.09.2011. She has been continuously taking treatment as an Outpatient. Due to the surgery and other incidental expenses , she has incurred a total medical expenditure of Rs.1.5 lakhs. Since the claimant has been suffering from permanent disability and lost her earning capacity as Flower Vendor, she claimed compensation of Rs.8,71,000/-.The accident had occurred only due to the rash and negligent driving of the first respondent. The second respondent is the owner of the car and the third respondent is the insurer of the second respondent. Hence they are jointly and severally liable to pay the compensation and prays to allow the appeal.

3.The third respondent denied the averments regarding the manner in which the accident had occurred and had stated that the claimant is only responsible for the accident. The claim of the first appellant/claimant towards interest and other heads of



C.M.A(MD)NO.2051 of 2013

compensation are excessive and are to be put to strict proof. Hence the third respondent prayed for dismissal of the claim petition.

4.Before the Tribunal, the original claimant is examined as P.W.1 and the Doctor who treated the claimant was examined as P.W.2. Ex.P1 to Ex.P12 were marked. On the side of the respondents, no witness was examined and no document marked.

5.On appreciation of evidence, the Tribunal on going through the oral and documentary evidence awarded a sum of Rs. 1,43,000/- together with interest at the rate of 7.5% from the date of claim petition till the date of realization and directed the third respondent Insurance Company to pay the said award amount. This appeal is filed by the original claimant seeking enhancement of compensation. During the pendency of the appeal, the claimant died and hence her legal heirs were brought on record as appellants 2 to 5/claimants.

6.The learned counsel for the appellants contending that as per evidence of PW2, Dr. Raju, who further treated the appellant has assessed the disability has at 25%. The trial Court has failed to consider the evidence of PW2 properly in its entirety and has



C.M.A(MD)NO.2051 of 2013

awarded only Rs.2,000/- per percentage of disability, which is on the lower side and liable to be set aside. He further contended that only Rs.5000/- awarded towards extra nourishment, Rs.2300/- for transport and Rs.5000/- for pain and suffering Rs.1000/- for clothing, which are on the lower side and hence, the same is liable to be enhanced.

7. The learned counsel for the 3rd respondent insurance company contended that the amount already awarded is on the higher side and that there is no necessity to interfere with the order of the learned Tribunal and the Civil Miscellaneous Appeal is liable to be dismissed.

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

9. This Court noted that the claimant has since deceased, and the claimant's legal heirs have been impleaded in this Civil



C.M.A(MD)NO.2051 of 2013

Miscellaneous Appeal.

WEB COPY

10.The accident occurred in the year 2011. The deceased claimant was aged about 65 years at the time of accident. As per the wound certificate Ex.P5, she sustained laceration injury over the left foot, with swelling and deformity over the left leg. She was admitted in the Manuel Orthopaedic Hospital, Therekalputhur for treatment and as per Ex.P6, discharge summary after receiving due medical treatment, she was discharged in a stable and normal condition. The claimant did not produce any medical certificate to substantiate that she had undergone further treatment.

11.Ex. P 9 is the disability certificate issued by one Dr.K.Raju, Civil Assistant Surgeon, on 5.11.2021 certifying that the claimant was suffering with 25% disability corresponding to her lower limbs. The above said doctor was examined as P.W.2 stated that the claimant had been treated by him for the past four months. However, no document was produced to show that she had



C.M.A(MD)NO.2051 of 2013

undergone any treatment in his hospital. PW2 admitted during cross examination that he had examined her only on 5.11.2012 and not met her subsequently. The claimant did not obtain a disability certificate from the medical board to prove the extent of disability.

The certificate of disability was issued on the personal letter head of Dr.Raju and not on official Hospital or Medical Board format.

12.Considering the above facts, the trial Court awarded a sum of Rs.2000/- per disability, which is proper. The trial Court awarded reasonable just compensation on the other heads which requires no interference and this Court finds no reason to interfere with the order of the Tribunal and hence, the Civil Miscellaneous Appeal is liable to be dismissed.

13.In the result, the Civil Miscellaneous Appeal is dismissed, and the order dated 30.01.2013 passed in MCOP No.6 of 2012, on the file of the Motor Accident Claims Tribunal/ Special Court for Forest Offence Cases, Nagercoil, Kanyakumari District is hereby



C.M.A(MD)NO.2051 of 2013

confirmed. No costs. Consequently, connected Miscellaneous
Petition is closed.

25.10.2025

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn

To

The Judge,
Special Court for Forest Offence Cases,
(The Motor Accidents Claims Tribunal)
Nagercoil, Kanyakumari District

Copy to

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

8/10



WEB COPY



C.M.A(MD)NO.2051 of 2013



WEB COPY



C.M.A(MD)NO.2051 of 2013

R.POORNIMA.,J.

vsn

JUDGMENT MADE IN

C.M.A(MD)No.2051 of 2013
and
C.M.P(MD)No.11036 of 2024

25.10.2025