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CMA(MD)No.1206 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20/11/2025

CORAM

**THE HONOURABLE MR JUSTICE P.VELMURUGAN
AND
THE HONOURABLE MRS JUSTICE L.VICTORIA GOWRI**

**CMA(MD)No.1206 of 2025
and
CMP(MD)Nos.16798 and 18367 of 2025**

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
By Pass Road,
Madurai-16. : Appellant/1st Respondent

Vs.

1.Thangapandi : 1st Respondent/Claimant
2.The Divisional Manager,
TATA AIG General Insurance Co. Ltd.,
North Block 3rd Floor, A.A,Towers,
No.4 & 5, By Pass Road,
Madurai-16. : 2nd Respondent/2nd Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order, dated 18/04/2024 made in MCOP No. 597 of 2022 on the file of the Motor Accident Claims Tribunal/ The Special Sub Court, Madurai and pass such further or other orders.

For Appellant : Mr.K.Ramaiah

For 1st Respondent : Mr.M.Thilagraj

For 2nd Respondent : Mr.N.Shylappa Kalyan



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JUDGMENT

(Judgment of the Court was made by the Hon'ble **P.VELMURUGAN J.**)

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This Civil Miscellaneous Appeal is filed against the order, dated 18/04/2024 passed in MCOP No.597 of 2022 by the Motor Accident Claims Tribunal (Special Sub Court), Madurai.

2.The facts of the case is that on 08/02/2022 at about 09.30 pm, the petitioner was riding his Hero CD-100 motor cycle No.TN-59-CK-0408 on Madurai-Dindigul Main road. When he was nearing Arjit Apartment, Vilangudi, at that time, the 1st respondent's driver drove the TNSTC Bus bearing No.TN-57-N-2164 in a rash ad negligent manner from east to west in order to overtake from right side of the break down TNSTC Bus, which was parked on the left side of the road and dashed against the motor cycle. In that process, the petitioner was thrown out from the motor cycle and fell down on the road and sustained multiple injuries. Immediately, he was taken to the Government Rajaji Hospital, Madurai, and admitted as inpatient and operation was conducted for temporal bone fracture. Thereafter, he was referred to Aravind Eye Hospital, Madurai, for laceration in his right eye and lid and discharged, on 16/02/2022 with a direction to continue the treatment as outpatient.



3. At the time of accident, the petitioner was aged about 29 years and was doing Grill Welding works at Meenakshi Grill Works, Vilangudi, Madurai and thereby he was earning Rs.25,000/- per month and he could not do the work as before the accident. Hence, the petitioner made a claim for a sum of Rs.25,00,000/- for the injuries sustained by him in the accident.

4. Resisting the claim made by the claimant, the 1st respondent Transport Corporation filed a counter contending that the accident took place due to the rash and negligent riding of the claimant and they are not liable to pay any compensation to the claimant. It is the further contention of the Transport Corporation that at that time of accident, the claimant was not possessing licence to ride the two wheeler and was not wearing helmet and they also denied the age, avocation, income, nature of the injuries, disability and medical expenses incurred by the claimant. In any event, quantum of compensation claimed by the claimant is highly excessive and prayed for dismissal of the claim petition.

5. The 2nd respondent Insurance Company filed a separate counter disputing the manner of the accident as projected by the claimant and their liability to pay the compensation.



6.To substantiate the case, on the side of the claimant, 3 witnesses were examined as PW1 to PW3 and marked 18 documents as Ex.P1 to P18. On the side of the respondents, one witness was examined, but no document was marked. Medical records were marked as Court Documents Exs.C1 and C2.

7.On appreciation of the oral and documentary evidence, the Tribunal found that the accident had occurred due to the rash and negligent driving of the Bus driver. Further, the Tribunal on the basis of the admission made by the claimant that he did not have valid licence and also not wearing helmet at the time of accident, fixed the negligence on the part of the claimant as 20%.

8.Though the Tribunal by awarding amounts under various heads, arrived the compensation as Rs.47,19,100/-, reduced the amount to Rs.37,75,280/- on account of the negligence fixed on the claimant as above referred. The claim petition was dismissed as against the second respondent Insurance Company.

9.Now the present appeal has been filed by the Appellant Transport Corporation contending that 100% disability fixed by the Tribunal is extremely on the higher side and also the negligence fixed on their side is also on the higher side; therefore, the amount awarded by the Tribunal under the head of permanent disability needs proper modification.



10. Per contra, the learned counsel for the claimant made his submissions supporting the award passed by the Tribunal.

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

12. From a perusal of the materials available on record, this Court finds that in order to support the disability suffered by the claimant, on his side, PW2 and PW3 were examined. The Doctors assessed the disability suffered by the claimant at 100% and issued the Disability Certificates, which were marked as Exs.C1 and C2. From the evidence of the Doctors, it is seen that the Tribunal rendered a finding that due to the side effect of injuries, both eyes not visible properly and therefore, he could not do his welding work as before the accident.

13. Assailing the said findings of the Tribunal, the learned counsel for the Transport Corporation submitted that there is no evidence to show that on account of the injuries sustained by him, the claimant is not in a position to continue his job as before the accident.

14. Perusal of Exs.C1 and C2, disability certificates, considering the fracture injuries sustained by the claimant, the Doctors assessed 75% of



permanent disability. Under such circumstances, considering the nature of injuries sustained by the claimant, this Court is of the considered view that 100% disability fixed by the Tribunal appears to be on the higher side. Hence, by fixing 75% disability as per Exs.C1 and C2, the calculation has to be made to arrive at a just and proper compensation. The claimant's monthly income was fixed as Rs.15,300/- and if 40% amount is added towards future prospects, then the total comes to Rs.21,420/-. If the disability is fixed at 75% and 17 multiplier is applied, the compensation amount under the head of permanent disability works out to **Rs.32,77,260/-** (Rs.21,420/- x 12 x 17 x 75/100). Hence, a sum of Rs.43,69,680/- awarded by the Tribunal under the head of loss of income is hereby modified and reduced to Rs.32,77,260/-. Except the above modification, the award passed by the Tribunal remains unaltered. Consequently, the total compensation amount of Rs.47,19,100/- awarded by the Tribunal is hereby modified and reduced to Rs.36,26,660/-.

15.It is seen that the Tribunal fixed contributory negligence at 20% on the claimant for the reasons that he was not having valid driving licence and not wearing the helmet at the time of the accident. After perusal of the records, this Court is of the opinion that for the non-possession of licence and non-wearing of helmet, the negligence can be fixed at 50% as at the time of the accident, the claimant was not possessing to ride the two wheeler and was not



wearing helmet. Hence, this Court fixes **50%** negligence on the part of the claimant. Accordingly, the compensation awarded by the Tribunal is re-calculated as under:-

Head	Award of the Tribunal	Award of this Court	status
Permanent disability	43,69,700/-	32,77,260/-	Reduced
Pain and sufferings	3,00,000/-	3,00,000/-	Confirmed
Nutrition	25,000/-	25,000/-	Confirmed
Medical expenses	3,100/-	3,100/-	Confirmed
Attendant charges	4,500/-	4,500/-	Confirmed
Transportation charges	5,000/-	5,000/-	Confirmed
Vehicle damages	11,800/-	11,800/-	Confirmed
Total	47,19,100/-	36,26,660/-	
80% compensation	37,75,280/-		
50% compensation		18,13,330/-	Modified

16.Since, this Court fixed 50% negligence on the part of the claimant, the claimant is entitled to **Rs.18,13,330/-** (Rs.3626,660/- Less Rs.18,13,330/-).

17.In the result, this Civil Miscellaneous Appeal is **partly allowed** and the compensation amount of Rs.37,75,280/- awarded by the Tribunal is hereby modified and reduced to **Rs.18,13,330/-**. The appellant Transport



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Corporation is directed to deposit the entire modified compensation, after deducting the amount if any already deposited, with proportionate interest as awarded by the Tribunal, within a period of eight weeks from the date of receipt of this order. On such deposit, the claimant is entitled to withdraw the same by making necessary application before the Tribunal. Excess amount if any, the same shall be returned back to the appellant Transport Corporation. No costs. Consequently, connected Miscellaneous Petitions are closed.

(P.V.,J) (L.V.G.,J)
20/11/2025

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Motor Accident Claims Tribunal/
Special Sub Court, Madurai.
- 2.The Section Officer,
VR/ER Section,
Madurai Bench of Madras High Court,
Madurai.



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