BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.07.2025

Pronounced on : 09.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA

C.M.A.(MD)No.422 of 2022
and
C.M.P(MD)No.3756 of 2022

The Divisional Manager,
M/s.United India Insurance Co. Ltd.,
7A, West Veli Street,
Madurai. ... Appellant/ 2nd Respondent

Vs.

1.A.Dinesh ...1st respondent / Petitioner

2.Ravichandran ...2nd respondent/ 1st respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 03.01.2022 made in M.C.O.P.No.796 of 2016 on the file of the Special Subordinate Court, Motor Accident Claims Tribunal, Madurai and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.I.Suthakaran

For Respondents : Mr.C.Vakeeswaran – for R1
No Appearance – for R2

JUDGMENT

(Judgment of this Court was delivered by **R.POORNIMA, J.**)

The appellant/2nd respondent Insurance company has filed this Civil Miscellaneous Appeal against the fair order and decretal order dated 03.01.2022 passed in M.C.O.P.No.796 of 2016 by the learned Special Subordinate Judge, Motor Accident Claims Tribunal, Madurai

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

On 19.03.2016 at about 08.00 am, the claimant was proceeding to his college in his friend's motorcycle bearing registration No.TN-59-AT-1114 as a pillion rider on the Madurai-Thirupparankundram Main Road from north to south and while proceeding near one Kumaragam Temple, a Lorry bearing registration No.TN-75-V-9227 belonging to the 1st respondent, which was driven by its driver, came behind the motorcycle in a rash and negligent manner, overtook it and suddenly turned to the left side of the road and hit the motorcycle. In that process, both the rider and pillion rider of the motorcycle fell and the Lorry ran over the left leg of the pillion rider, who is the claimant herein and thereby the claimant sustained multiple fractures and injuries all over the body. Immediately, he got admitted to Lakshmana Hospital, Madurai and thereafter, admitted at Apollo Hospital on the same day i.e., on 19.03.2016 and discharged on 23.04.2016. Thereafter, he was taking physiotherapy treatment at Poovanthi as an inpatient under the care of Apollo Hospital.

3. Over the occurrence, a case in Crime No.89 of 2016 was registered by the Traffic Investigation Wing No.1, Tallakulam Police Station, Madurai District under sections 279 and 337 IPC against the driver of the offending vehicle.

4. At the time of the accident, the claimant was about 22 years old and was studying final year of B.B.A. at Mannar Thirumalai Naicker College, Madurai. He had also done a Diploma course in Agriculture at Gandhigram University, Dindigul. Claiming a compensation amount of Rs.1,50,00,000/-, the claimant filed the claim

petition.

5. The claim was resisted by the Appellant, Insurance Company by filing a counter disputing the manner of the accident contending that the 1st respondent's Lorry was not insured with them and the said Lorry was not having a valid Fitness Certificate on the date of the accident and that the claimant failed to implead the rider/owner of the two wheeler and his insurer as necessary parties to the proceedings, as the rider of the two wheeler was at fault. Since the claimant failed to implead the above-mentioned parties to the proceedings, the claim petition is bad for non-joinder of necessary parties. It is further contended that the age of the claimant was wrongly given as 22 years, when he was studying the final year of BBA in the college at the time of the accident.

6. Before the Tribunal, on the side of the claimant, 7 witnesses were examined and 48 documents were marked. On the side of the Insurance Company, no oral and documentary evidence was adduced. The disability certificate was marked as Ex.C1.

7. At the conclusion of the trial process, regarding the first aspect of negligence, the Tribunal recorded a finding that it occurred due to the rash and negligence on the part of the first respondent's vehicle. About the compensation, the income of the claimant was assessed at Rs. 18,000/- per month. The age of the claimant was fixed at 22. The permanent disability was fixed at 100%. The Tribunal, while assessing the compensation of Rs.54,43,200/- by applying the multiplier method towards permanent disability and in addition thereto granted the conventional sums under the other heads. Finally, the total compensation was calculated under the following heads:-

Permanent disability of 100%	Rs, 54,43,200/-
Pain and sufferings	Rs. 15,00,000/-
Transportation expenses	Rs. 1,29,000/-
Medical Expenses	Rs. 35,00,000/-
Future medical expenses	Rs. 5,00,000/-
Nutrition	Rs. 1,00,000/-
Attender charges (2 Attenders)	Rs. 17,28,000/-
Total	**Rs.1,29,00,200/-**

and directed the Appellant Insurance Company to pay the award amount together with interest at the rate of 7.5% p.a from the date of the claim petition till the date of realization.

8. Aggrieved over the award of the Tribunal, this Civil Miscellaneous Appeal is preferred by the Insurance Company.

9. Heard the learned Counsel for the appellant Insurance Company and the learned Counsel appearing for the 1st respondent/claimant and perused the materials available on record.

10. This appeal is filed only against the quantum of compensation awarded by the Tribunal and not on any other grounds.

11. The learned counsel for the appellant/Insurance Company argued that the Tribunal had wrongly awarded a sum of Rs.1,29,00,200/- as compensation without properly appreciating the facts and circumstances of the case. He further contended that the Tribunal had erred in awarding compensation of Rs.54,43,200/- towards loss of earning capacity on account of permanent disability sustained by the claimant, by taking his monthly income as Rs.18,000/- without any valid documentary proof. Since the claimant was a 3rd year BBA student, the

Tribunal ought not to have fixed his monthly income at Rs.18,000/- without any basis or supporting evidence and hence, the compensation awarded under the head loss of earning capacity on account of permanent disability is liable to be set aside. He further contended that the medical board assessed the disability at 80%, but the Tribunal assessed the disability at 100% without any material, and the disability ought to have been fixed at 80%.

12. There is no doubt that the claimant was pursuing 3rd year BBA Course at the time of the accident. It was further stated by the claimant that apart from the above, he had also completed a Diploma Course in Agriculture at Gandhigram University, Dindigul, and he produced the relevant documentary evidence.

13. The claimant was pursuing a course in business management, apart from holding a diploma in agriculture and therefore had a bright future with the potential to secure gainful employment and earn a substantial salary upon completion of education. It is to be noted that the monthly income and the future earning capacity of the claimant are to be determined having due regard to the impact of the injury

sustained. In the judgment reported in ***Rajkumar v. Ajay Kumar [2011(1) SCC 343]***, the Hon'ble Apex Court held in para 9 that where the claimant suffers permanent disability as a result of the injuries, the assessment of compensation under the head of loss of future earning has to be determined based on basis of the extent and impact of such permanent disability on the earning capacity of the claimant

14. In this case, the claimant suffered the following injuries:-

(1)FRACTURE DISLOCATION D10 D11 WITH TRAUMATIC PARAPLEGIA.
(2)UNSTABLE PELVIS.
(3)OPEN FRACTURE LEFT TIBIA.
(4)IPSILA TERAL FRACTUR FEMUR MIDDLE 3rd AND DISTAL TIBIA LEFT SIDE WITH EXTERNAL FIXATION.
(5)RETROPERIOTONEAL HEMATOMA.
(6)SIGMOID MESOCOLON-LACERATION.
(7)URETERAL INJURY.

15. Normally, in injury cases, the disability would be decided by the Medical Board. The medical board assessed disability of the claimant at 80% on account of paraplegia. However, the learned Tribunal, by referring to Schedule - I Table 5 of the Workmen's

Compensation Act, treated paraplegia as amounting to one hundred per cent disability as being totally incapacitated from earning any livelihood.

16. As per Schedule I of the Workmen's Compensation Act, 1953, list of Injuries Deemed to Result in Permanent Total Disablement is as under:-

Sl. No.	Description of Injury	Percentage of Loss of Earning Capacity
1.	Loss of both hands or amputation at higher sites	100
2.	Loss of hand and a foot	100
3.	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot	100
4.	Loss of sight to such an extent as to render the claimant unable to perform any work for which eyesight is essential	100
5.	Very severe facial disfigurement	100
6.	Absolute deafness	100

17. Therefore, we are of the considered view that the Tribunal has rightly assessed the disability as 100% permanent disability.

Further taking into account the claimant's educational qualifications, and future prospects, the Tribunal has correctly fixed the monthly income at Rs.18,000/-. Therefore, this Court finds no reason to interfere with the findings of the Tribunal regarding the assessment of disability as well as the fixation of the monthly income.

18. Another grievance raised by the appellant Insurance Company is that the Tribunal has awarded Rs.17,28,000/- for two Attendant charges which, according to the appellant is on the higher side and therefore, the same is liable to be reduced.

19. It is seen that the Tribunal has awarded Rs.4,000/- per Attendant thereby fixing Rs.8,000/- for 2 Attendants relying upon the judgment of the Hon'ble Supreme Court reported in ***2020(1) TN MAC 328 (SC)*** in the case of ***Kajal Vs. Jagdish Chand and Others,*** wherein the victim was in a vegetative state and not in a position to move on her own, the charges are also to be determined by applying the multiplier method.

20. As far as the present case is concerned, there is no doubt

that the claimant suffered 100% permanent disability resulting in loss of movement below the hip.

21. However, in Ex.P6 Medical Report issued by the Medical Officer, Live Well Institute of Rehabilitation Medicine, Poovanthi, Sivagangai District, it is stated that he is independent in certain functional abilities like coming up to sit, standing and walking using a walking frame up to 50 yards with bilateral above-knee calipers. Therefore, while considering the claim for two attendance charges as fixed by the Tribunal, this court finds it necessary to reassess the quantum in the light of medical evidence on record. Therefore, we are of the view that instead of awarding compensation towards charges of two attendants, the service of one attendant would be sufficient. Accordingly, the award under the head of attendant charges is modified and reduced from Rs.17,28,000/- to Rs.8,64,000/-.

22. The compensation that has been fixed under the other heads is found to be just and reasonable and does not warrant any interference of this Court.

23. In the light of the above discussion, the compensation awarded by the Tribunal is recalculated as under:-

Nature of Head	Award of the Tribunal	Award of this Court
Permanent disability of 100%	Rs, 54,43,200/-	Rs, 54,43,200/-
Pain and sufferings	Rs. 15,00,000/-	Rs. 15,00,000/-
Transportation expenses	Rs. 1,29,000/-	Rs. 1,29,000/-
Medical Expenses	Rs. 35,00,000/-	Rs. 35,00,000/-
Future medical expenses	Rs. 5,00,000/-	Rs. 5,00,000/-
Nutrition	Rs. 1,00,000/-	Rs. 1,00,000/-
Attender charges	Rs. 17,28,000/-	Rs. 8,64,000/-
Total	Rs.**1,29,00,200/-**	**Rs.1,20,36,200/-**

24. With the above said modification, this Civil Miscellaneous Appeal is disposed of. The award of the Tribunal is reduced to Rs.1,20,36,200/- from Rs.1,29,00,200/-. The Appellant Insurance Company is directed to deposit the modified amount of Rs.1,20,36,200/- together with interest at the rate of 7.5% p.a, from the date of petition till the date of deposit, less the amount already deposited, within a period of eight weeks from the date of receipt of a copy of this

judgment. On such a deposit, the 1st respondent/claimant is permitted to withdraw the same, less the amount already withdrawn, if any together with accrued interest and costs by filing an appropriate petition before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

(A.D.J.C., J.) & (R.P., J.)
09.10.2025

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

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To

1.The Special Subordinate Court,
Motor Accident Claims Tribunal,
Madurai.

Copy to

1.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.

A.D.JAGADISH CHANDIRA, J.
AND
R.POORNIMA, J.

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Judgment in
C.M.A.(MD)No.422 of 2022

09.10.2025