

C.M.A.(MD)No645 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 04.03.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.645 of 2022

and

C.M.P.(MD)No.5520 of 2022

The Branch Manager,
United India Insurance Company Ltd.,
391, Tenkasi Road,
Rajapalayam,
Virudhunagar District.

... Appellant

Vs.

1. M.Pradeep

2. S.Pavul Raj

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, to set aside the judgment and decree dated 26.03.2021 passed in M.C.O.P.No.119 of 2019 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Virudhunagar District, Srivilliputhr.



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C.M.A.(MD)No645 of 2022

For Appellant : Mr.I.Robert Chandrakumar

For R-1 : Mr.M.Jothibasu

For R-2 : Dispensed with

JUDGMENT

This Civil Miscellaneous Appeal is filed challenging the order dated 26.03.2021 made in M.C.O.P.No.119 of 2019 on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Virudhunagar District, Srivilliputhr.

2. For the sake of convenience, the parties herein are referred to as per their ranking before the Tribunal.

3. The brief facts in a nutshell are as follows:

(i) The petitioner is the injured person in this case. The first respondent is the owner of the vehicle involved in the accident and the second respondent is the Insurance Company.

(ii) On 15.01.2019 at about 03:15 a.m. the petitioner was travelling



C.M.A.(MD)No645 of 2022

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as a pillion rider on a two-wheeler bearing Registration No.TN-84-D-7063 along with his friend Krishna Raj, along the Rajapalayam - Sankarankovil Main Road near Kodhainachiyarpuram New Bridge, on the southern side. At that time, a Mahindra Bolero bearing Registration No.TN-58-L-5080 driven by one Murugesan and owned by the first respondent came from the south to north direction in a rash and negligent manner and collided with the two-wheeler on which the petitioner was travelling. As a result of which the petitioner sustained grievous injuries all over his body, following which he was immediately admitted to the Rajapalayam Government Hospital, where he underwent treatment as inpatient from 15.01.2019 to 12.02.2019 including multiple surgeries. Despite the treatment, the petitioner has not made a full recovery and remains a vegetative state. The doctors have certified that the petitioner is 100% disabled and that his future condition will remain a vegetative existence.

(iii) The Tribunal examined two witnesses on the side of the claimant as P.W.1 and P.W.2 and marked Ex.P.1 to Ex.P.25. No witnesses were examined on the side of the respondents and the disability certificate was marked as Court Document No.1.

(iv) On the basis of the arguments made by the respective parties, the evidence deposed and the documents marked, the Tribunal awarded a



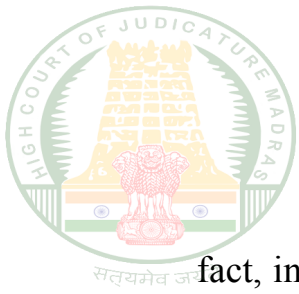
C.M.A.(MD)No645 of 2022

WEB COPY

compensatin of Rs.55,31,750/-. Challenging the quantum of the said award, the second respondent / Insurance Company has preferred the present appeal before this Court.

4. The learned Counsel appearing for the appellant submitted that there is no dispute with regard to the multiplier adopted or the compensation awarded under the first three heads arrived at by the Tribunal. However, he strongly opposed the adoption of the multiplier method by the Tribunal for calculation of the attendant charges. He further submitted that an amount of Rs.5,00,000/- has been awarded towards future medical expenditure without any documentary or oral evidence. Therefore, he pressed for modification of the award on these specific grounds.

5. Per contra, learned Counsel appearing for the claimant relied upon the judgment of the Honourable Supreme Court in the case of **Kajal vs. Jagdish Chand and Others** reported in **2020 (1) TN MAN 328 (SC)** submitted that the Honourable Supreme Court has dealt with a similar case in which the injured suffered a vegetative condition in which the Apex Court adopted a multiplier method for finalizing the attendance charges. In

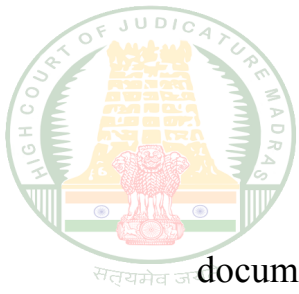


C.M.A.(MD)No645 of 2022

fact, in that case two attenders were permitted by the Honourable Supreme Court and in the present case, the Tribunal has applied the multiplier method to calculate charges for engaging only one attendant for the injured petitioner. On that basis, the learned Counsel pressed for dismissal of the appeal.

6. Heard the learned Counsel for the appellant and the learned Counsel for the first respondent and perused the materials available on record.

7. Considering the prevailing inflation rate and the current economic scenario, as well as the young age of the injured claimant, I am conscious enough to observe that the attendant charges cannot reasonably be confined to just Rs.8000/- as fixed at by the Tribunal. It may be three to four times higher at this point of time in 2025. Therefore, I am not inclined to interfere with the award passed by the Tribunal under the head attendant charges especially as it is fully fortified by the Judgment of the Honorable Apex Court reported in **2020(1) TC MAC 328 (SC)**. As far as the head future medical expenditure is concerned, though the learned Counsel for the appellant categorically submitted that the same is not without any



C.M.A.(MD)No645 of 2022

documentary or oral evidence, in the nature of *lis* in hand, when the claimant is in a vegetative state, obviously medical expenditure will be incurred from time to time, which has to be met by the claimant. Therefore, I am not inclined to interfere with the order passed by the Tribunal. Accordingly, this Civil Miscellaneous Appeal stands dismissed.

8. The appellant / Insurance Company is directed to deposit the compensation amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.119 of 2019 before the Motor Accident Claims Tribunal cum Cheif Judicial Magistrate, Virudhunagar District, Srivilliputhur, within a period of six weeks (6) from the date of receipt of copy of this judgment. On such deposit, the claimant is permitted to withdraw the said amount, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

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

04.03.2025

jbr



C.M.A.(MD)No645 of 2022

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To

1. The Chief Judicial Magistrate.
Virudhunagar District,
Srivilliputhur.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD)No645 of 2022

L.VICTORIA GOWRI, J.,

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C.M.A.(MD)No.645 of 2022

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