



C.M.A(MD)No.1022 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2025

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.A(MD)No.1022 of 2024

TATA AIG General Insurance Company Limited,
C-135A, 5th Cross, Thillainagar,
Trichy.

... Appellant/2nd Respondent

-Vs-

1.S.Palanisamy
2.R.Sarathkumar

...1stRespondent/Petitioner
... 2nd Respondent/1st
Respondent

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1998, as against the award dated 05.01.2024 passed in MCOP No.77 of 2019 by the Motor Accident Claims Tribunal/Special Sub-Court, Tiruchirappalli.

For Appellant : Mr.J.S.Murali
For R1 & R2 : No appearance



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J U D G M E N T

This Civil Miscellaneous Appeal is preferred against the award dated 05.01.2024 passed in MCOP No.79 of 2019 by MACT, Special Sub-Court, Trichy.

2.Heard the arguments of the learned counsel appearing for the appellant.

3.Despite the receipt of notice, the first and second respondents neither appeared nor represented through their counsel.

4.Upon consideration, the Tribunal fixed contributory negligence on the claimant at 40% and for that, a sum of Rs.8,85,794 was deducted and the total award amount is Rs.13,74,690/- and the components of compensation granted by the Tribunal is given hereunder:

For partial permanent Disability	Rs.15,56,100/-
For Medical Bills	Rs.1,89,584/-
For Loss of Amenities	Rs.1,00,000/-
For Loss of Expectation of Life	Rs.1,00,000/-



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For Attender Charges	Rs.7,000/-
For Loss of Income	Rs.79,800/-
For Pain and Sufferings	Rs.1,00,000/-
For Transport Charges	Rs.15,000/-
For Extra Nourishment	Rs.15,000/-
For Damages to clothes and other valuables	Rs.2,000/-
For Future Medical Expenses	Rs.50,000/-
Total Amount	Rs.22,14,484/-
----- Deduction of 40% towards contributory negligence of the injured petitioner is -----	Rs.8,85,794/-
Total Award Amount	Rs.13,28,690/-
Cost Rs.44,806/- and rounded off as litigation Expenses	Rs.46,000/-
Total	Rs.13,74,690/-

5.The learned counsel for the appellant/Insurance Company would contend that as the claimant was also at fault, fixing of 40% of contributory negligence upon the claimant is incorrect. His next limb of the argument is that for the head injuries suffered by the claimant, the Tribunal has invoked multiplier method, which is not warranted and hence, he sought for allowing the appeal.

6.As regards the manner in which the accident had occurred, the available evidence on record is P.W.1. Though 5 witnesses have been



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examined on the side of the second respondent/Insurance Company, no ocular witness is examined. It is the evidence of P.W.1/claimant that on 08.07.2017 at about 03.45 p.m., when the claimant was proceeding in his TVS XL 100(TN-45-BJ-0613) along Pudukottai to Trichy Main Road from South to North(towards eastern side)he turned to his right side with indicator, another two wheeler belongs to the first respondent(TN-45-BK-1146) came in a rash and negligent manner and hit from behind. Due to the said impact, he was thrown-out and sustained serious injuries.

7.From the evidence of P.W.1, it is deducible that as the claimant was proceeding from South to North side when he turned to the right side with indicator light on, the first respondent, rider of the two wheeler would indicate turn slowly to the western side and he further proceeded towards northern side and thereby the accident could have been averted. Therefore, based on the evidence of P.W.1, contributory negligence is fixed at 50% on the claimant and in view of the same, the findings of the Tribunal is not interfered with.



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8.It is the evidence of P.W.1 that due to the accident he suffered head injury and un-displaced fracture in right parietal bone, left temporal SDH, for which, (Ex.P.2-Discharge Summary and Ex.P.6-Wound Certificate). He was admitted on the date of accident / 08.07.2017 at Apollo Hospital, Trichy and got discharged on 19.07.2017. He was given conservative treatment.

9.The Medical Board, Trichy has assessed his disability at 60%. It was categorized as visual disability(Ex.C.1-Disability Certificate). It is the evidence of P.W.1 that he was earning Rs.15,000/- per month, by doing agriculture work and through real estate business. Considering the nature of injuries sustained by the claimant, the effects upon him with the said disability, the claimant would definitely feel difficulties to work as he did before the date of the accident. As per Ex.P.8-Driving License and the Aadhar Card(Ex.P.4) the age of the claimant is safely fixed as 51 years. The date of accident is 08.07.2017.



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10.No document was filed to prove the income of the claimant.

The claimant's income is safely fixed as Rs.13,000/-. As per the law laid down by the Hon'ble Supreme Court in ***Sarala Varma and others Vs Delhi Transport Corporation and another***, reported in ***2013(1)TNMAC 481 SC***, the relevant multiplier is '11m'.

11.Upon consideration of the injuries suffered by the claimant and effects upon him and also in consideration of the disability assessed by the Medical Board, this Court is of the considered view that the Tribunal is correct in choosing the multiplier method for computing loss of dependency. (Rs.13,000/- x 12 x 11=17,16,000/-). As per Ex.P.4 and Ex.P. 8, the age of the claimant is safely fixed at 51 years.

12.The law is well settled that in the case of injury for computing loss of future income, if the multiplier method is adopted, the claimant is not entitled for loss of income during the treatment period. Therefore, the claimant is not entitled for loss of income of Rs.79,800/- as computed by the Tribunal. With regard to the other heads, the amount granted by the



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Tribunal appears to be reasonable and acceptable and it needs no interference. Based on the aforesaid details, components of compensation is reworked and tabulated as given below:

S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1.	For Loss of future income	--	Rs.17,16,000/-	Granted
2.	For Loss of Disability Compensation	Rs.15,56,100/-	--	Not granted
3.	For Medical Bills	Rs.1,89,584/-	Rs.1,89,584/-	Confirmed
4.	For loss of income during treatment period	Rs.79,800/-	--	Not granted
4.	For loss of Amenities	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed
5	For loss of Expectation of life	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed
6	Attender Charges	Rs.7,000/-	Rs.7,000/-	Confirmed
7	For Pain and Sufferings	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed
8	For Transportation Charges	Rs.15,000/-	Rs.15,000/-	Confirmed
9	For Extra Nourishment	Rs.15,000/-	Rs.15,000/-	Confirmed
10	For Damages to Clothes and other valuables	Rs.2,000/-	Rs.2,000/-	Confirmed
11	Future Medical Expenses	Rs.50,000/-	Rs.50,000/-	Confirmed
	Total	Rs.22,14,484/-	Rs.22,94,584/-	
	-----	-----	-----	
	Deduction of 40% towards contributory negligent of the injured petitioner is	Rs.8,85,794/-	Rs.9,17,834/-	
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			Rs.13,76,750/-	
	Cost Rs.44,806/- and rounded off as Litigation Expenses	Rs.46,000/-	Rs.46,000/-	



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S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
	Total	Rs.13,74,690/-	Rs.14,22,750/-	

13. Based on the aforesaid discussion and observations, this Civil Miscellaneous Appeal stands partly allowed. The compensation awarded by the Tribunal is enhanced from Rs.13,74,690/- to Rs.14,22,750/-.

(iii) The appellant/Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.14,22,750/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.77 of 2019 on the file of Motor Accidents Claims Tribunal /Special Sub-Court, Tiruchirappalli, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the first respondent/claimant is permitted to withdraw the award amount along with interest and costs as apportioned by the Tribunal, after adjusting the amount, if any already



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withdrawn, by filing necessary application before the Tribunal.

(v) The first respondent/claimant is directed to pay the Court fee for the enhanced compensation amount, if required.

(vi) The Tribunal shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

(vii) No costs.

29.01.2025

NCC:Yes/No

Index:Yes/No

Internet::Yes/No

To

1.The Motor Accident Claims Tribunal/
Special Sub-Court,
Tiruchirappalli.



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R. KALAIMATHI,J.

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