



C.M.A(MD)No.850 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2025

WEB COPY

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A(MD)No.850 of 2025

and

C.M.P(MD)Nos.13285 & 18351 of 2025

The Branch Manager,
The Oriental Insurance Company Limited,
First Floor, DDJ Centre,
Opposite to Vadasery Bus Stand,
Vadasery, Nagercoil & Village,
Agasteeswaram Taluk,
Kanyakumari District.

...Appellant/Respondent No.3

Vs.

1.A.S.Mathu Mithan
G.Ramaraj (Died)
2.E.Vignesh
3.The Branch Manager,
United India Insurance Company Limited,
PWD Road, Nagercoil,
Nagercoil Village,
Agasteeswaram Taluk,
Kanyakumari District.
4.Ganthimathi
5.Megala
6.Minor Akina



7.Minor Esthar
(Minor respondents 6 & 7 represented
through their mother, guardian
5th respondent herein)

...Respondents 2 to 7/
Respondents 2, 4 to 7

Prayer:- This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 18.03.2025 passed in M.C.O.P.No.26 of 2022, on the file of the I Additional Motor Accident Claims Tribunal Judge of Nagercoil by allowing this appeal.

For Appellant : Mr.V.Sakthivel

For Respondents : Mr.S.Jayakumar

J U D G M E N T

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

The appellant Insurance Company aggrieved by the award passed by the I Additional Motor Accident Claims Tribunal Court, Nagercoil, in M.C.O.P.No.26 of 2022, dated 18.03.2025, has preferred this appeal, questioning the quantum of compensation awarded by the tribunal.

2.MCOP No.26 of 2022 has been filed by the injured claiming compensation of Rs.1,40,00,000/- alleging that on 19.10.2020 at about 3.25 pm, while he was riding his TVS two-wheeler bearing registration No.TN-74-AW-5766 in the extreme left side of the road towards west direction from Tirunelveli to Nagercoil road, in front of SAFI Traders,



Ozhukinasery, on the same direction a Mini Lorry (Goods Carrier - Tipper) bearing No.TN-67-BF-7579 drove by the first respondent in a rash and negligent manner and dashed against the petitioner's two wheeler. In the impact, the petitioner sustained grievous injuries. Immediately, he was admitted in Manuel Orthopedic Hospital Therekalputhoor and subsequently, he took treatment at various hospitals for about one year.

3.The third respondent / Insurance Company filed a counter contending that the claimant was cause for the accident, and also disputed their liability to pay compensation.

4.Before the Tribunal, the claimant examined himself as P.W.1 and also examined three other witnesses as P.W.2 to P.W.4 and marked Exs.P1 to P53. On the side of the respondents, no witness was examined and no document was marked. Ex.C1 was marked as Court document.

5.The Tribunal, relying upon the evidence of P.W.1, Ex.P1-FIR, Ex.P5-Charge sheet, came to the conclusion that the first respondent was responsible for the accident and awarded compensation of Rs.87,96,892/- along with interest @ 7.5% per annum. Challenging the award, the present appeal has been filed.



6.Heard **Mr.V.Sakthivel**, learned counsel appearing for the appellant and **Mr.S.Jayakumar**, learned counsel appearing for the first respondent and perused the materials available on record.

7. The learned counsel for the appellant / insurance company submitted that this is a case of injury, due to the accident, the claimant sustained grievous injury and he was referred to the Medical Board, after examining the injured, the medical board has given disability certificate for 61%. The doctor was examined as P.W.4 and he has not stated anything about the permanent disability and after examining the injured, he assessed only 61% of the disability. Whereas, the tribunal without assigning any specific reason, calculating the loss of annual income and took 100% disability, which is against the evidence of P.W.4 and also Ex.C1-disability certificate. On the other hand, the learned counsel for the claimant / first respondent made submissions in support of the award passed by the tribunal.

8. The Tribunal has fixed the notional loss of income at Rs.20,398/- per month and by applying multiplier of 17, awarded Rs.41,61,192/- towards loss of income. The tribunal has fixed 100% disability and the same is to be reduced. Re-appreciating the evidence of



P.W.4 doctor, this Court finds that the award passed by the tribunal towards loss of income is perverse and therefore, as per Ex.C1 and also the evidence of P.W.4, this Court fixed the disability at 61% and the amount comes to Rs.20,398 x 12 x 17 = 41,61,192/- x 61 % 100 =Rs.25,38,327/- towards loss of income. The amounts awarded under all other heads are confirmed.

9.In the result, this Civil Miscellaneous Appeal is partly allowed. The award is reduced to **Rs.71,74,027/-** from Rs.87,96,892/-. The appellant Insurance Company is directed to deposit the modified award amount, less the amount already deposited, if any, along with accrued interest and costs to the credit of M.C.O.P.No.26 of 2022, on the file of the I Additional Motor Accident Claims Tribunal Judge of Nagercoil, within a period of **eight weeks** from the date of receipt of copy of this judgment. On such deposit, the claimant is permitted to withdraw the same. No costs. Consequently, connected miscellaneous petitions are closed.

(P.V.,J.) (L.V.G.J.,)
14/11/2025

Index : Yes/No.
Internet : Yes/No.
am



C.M.A(MD)No.850 of 2025

To:

WEB COPY

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



WEB COPY



C.M.A(MD)No.850 of 2025

P.VELMURUGAN,J.
and
L.VICTORIA GOWRI,J.
am

C.M.A(MD)No.850 of 2025

14/11/2025