

*C.M.A.(MD)No.966 of 2023*

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 27.03.2025**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**C.M.A.(MD)No.966 of 2023**

**and**

**CROS.OBJ(MD)No.16 of 2025**

**and**

**C.M.P.(MD)No.13529 of 2023**

**In C.M.A.(MD)NO.966 of 2023**

The Managing Director,  
Tamil Nadu State Transport  
Corporation,  
Periyamilaguparai,  
Trichy.

... Appellant / Respondent

Vs.

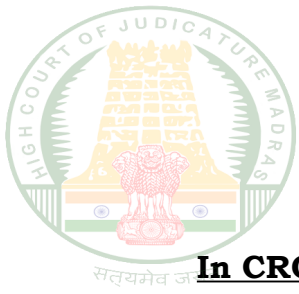
Mohamed Faarook

... Respondent / Petitioner

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988, to set aside the award / order dated 04.11.2022 made in M.C.O.P.No.334 of 2014 on the file of the Motor Accident Claims Tribunal / The learned Special Sub Judge, Trichirappalli.

For Appellant : Mr.K.Ramaiah

For Respondent : Mr.S.M.Mohan Gandhi



C.M.A.(MD)No.966 of 2023

**In CROS.OBJ.(MD)No.16 of 2025**

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Mohamed Faarook

... Cross Objector / Respondent /  
Claimant

Vs.

The Managing Director,  
Tamil Nadu State Transport  
Corporation,  
Periyamilaguparai,  
Trichy.

... Respondent / Appellant /  
Respondent

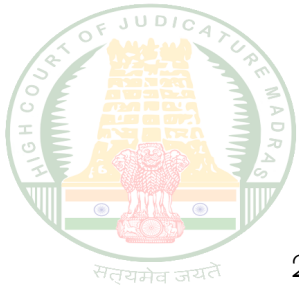
**PRAYER:** Cross Objection filed under Order 41 Rule 22 of CPC r/2 u/s 173 of the Motor Vehicles Act, 1988, to set aside the award dated 04.11.2022 made in M.C.O.P.No.334 of 2014 on the file of the Motor Accident Claims Tribunal / The learned Special Sub Judge, Trichirappalli and allow the cross objection.

For Cross Objector : Mr.S.M.Mohan Gandhi

For Respondent : Mr.K.Ramaiah

### **COMMON JUDGMENT**

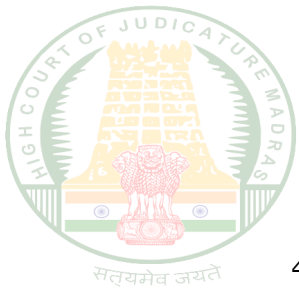
Challenging the order passed by the Motor Accident Claims Tribunal / The learned Special Sub Judge, Trichirappalli, in M.C.O.P.No.334 of 2014 dated 04.11.2022, the Transport Corporation has filed this Civil Miscellaneous Appeal. The claimant has also filed a cross objection.



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

3.The case is one of injury. The petitioner / claimant is the injured and the respondent is the Transport Corporation. On 16.06.2012, at about 4.00 p.m., the petitioner was driving his two wheeler bearing registration No.TN 45 AV 8451 from east to west near Sree Sweet Stall, Thiruverumbur, the respondent corporation's bus bearing registration No. TN 45 N 2107 which was driven by its driver in the same direction, i.e., from east to west direction had dashed the petitioner from behind, causing the accident, as a result of which, the petitioner sustained multiple injuries, particularly fracture in his leg and spinal cord and was immediately taken to ABC Hospital, Trichy and was admitted as in-patient. Further he was referred to CSI Hospital, Trichy, for higher treatment and then to Anandhagiri Hospital as in-patient and he incurred a huge medical expenditure to the tune of Rs. 5,00,000/- (Rupees Five Lakhs only). In this regard, a FIR in crime No. 372 of 2012 was registered under Sections 279 and 337 of the IPC by the Thiruverumbur Police. Seeking to compensate the injury suffered, the claimant laid the M.C.O.P.

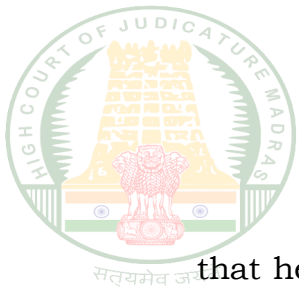


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4.The learned Tribunal had proceeded to examine three witnesses on the side of petitioner and marked Ex.P-1 to Ex.P-23, one witness was examined on the side of the respondent and no documents were marked. However, the disability certificate of the petitioner was marked as Exhibit C-1 and medical certificate issued by GH, Trichy, and concession certificate issued by GH, Trichy, were marked as Exhibit X1 and X2 respectively. On the basis of the arguments made by either parties, evidence deposed and documents marked, the learned Tribunal proceeded to pass an award of Rs.3,91,736/- (Rupees Three Lakhs Ninety One Thousand Seven Hundred and Thirty Six only). Challenging the same, the Transport Corporation has preferred this appeal and the claimant has preferred the cross objection seeking to enhance the compensation.

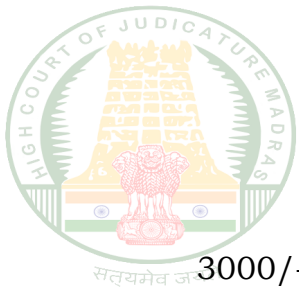
5.The learned counsel for the Transport Corporation submitted that the petitioner was referred to the medical board attached with JDHS Hospital at Trichirappalli, to ascertain the nature of disability sustained by the petitioner and the same is marked as Exhibit P-23, revealing 69% disability. However, the claimant failed to prove that he had suffered any functional disability. More particularly, he relied upon the evidence deposed by the injured as PW-1 where he clearly deposed



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that he is able to do his routine work as before accident. In view of the same, he further made it clear that the disability certificate was not issued by any of the recognized medical board as required under the Act, but the same has been issued by a private hospital which could not have been relied upon by the learned Tribunal.

6.The learned counsel for the respondent submitted that the contentions of the learned counsel for the appellant is not at all correct. Though the disability certificate issued by the private doctor which is marked as Exhibit P-23 claims that the petitioner suffered 69% disability, a careful perusal of Exhibit C1 disability certificate issued by the Joint Director of Health Service, Trichy, would make it clear that the injured had suffered 30% disability. Further, he relied upon the evidence of PW-2 doctor, one doctor Ravi who had made it clear that the petitioner / claimant cannot effectively function as he had been earlier to the accident. He pointed out that the spinal cord of the claimant / injured was damaged. That apart, the fracture sustained by him in his lower knee was also treated by a surgery by incorporating metal rods inside his right leg. Hence, he is not able to walk as easily as he had been able to before the accident. In view of the same, the percentage which was awarded by the learned Tribunal is less, instead of Rs.

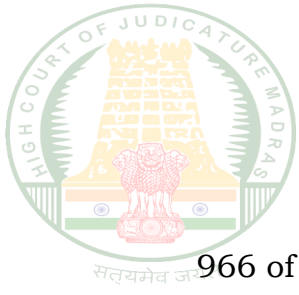


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3000/- (Rupees Three Thousand only) per percentage, the learned Tribunal ought to have awarded Rs.4000/-. Hence, the claimant is entitled for enhancement and pressed for allowing the cross objection.

7.Heard the learned counsel for the appellant Corporation, the learned counsel for the claimant and carefully perused the materials available on record.

8.The learned Tribunal had rightly appreciated the evidence deposited and only on the basis of the disability certificate issued by the Medical Board convened by the Joint Director of Health Services which had certified that the claimant had suffered 30% disability. The Trial Court has appropriately appreciated the nature of the injuries suffered and has come to a conclusion that a disability suffered by the claimant is not one of functional disability and had proceeded to fix Rs.3,000/- (Rupees Three Thousand only) per percentage of disability while calculating the compensation in the given facts of the case. Accordingly, I don't find any demerit in the order passed by the Tribunal and hence, the appeal fails and the cross objection also fails. Hence, the award of the learned Tribunal is hereby confirmed. Accordingly, C.M.A(MD)No.



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966 of 2023 and CROS.OBJ.(MD)No.16 of 2023 are dismissed.

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9.The appellant Transport Corporation is directed to deposit the compensation amount as awarded by the learned Tribunal with accrued interest and costs to the credit of M.C.O.P.No.334 of 2014 on the file of the Motor Accident Claims Tribunal / The learned Special Sub Judge, Trichirappalli, within a period of eight weeks (8) from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimants / respondents are entitled to get their shares as per the apportionment fixed by the Tribunal, less the amount, if any already withdrawn, by making necessary application before the Tribunal. No costs. Consequently connected miscellaneous petition is closed.

**27.03.2025**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes  
Sml  
To

The Motor Accidents Claims Tribunal,  
The Sub Judge,  
Trichirappalli.

Copy to  
The Section Officer,  
Vernacular Records,  
Madurai Bench of Madras High Court,  
Madurai.

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**L.VICTORIA GOWRI, J.,**

Sml

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**27.03.2025**