



C.M.A(MD)Nos.40 of 2025 & 553 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 01.08.2025

Pronounced on : 28.08.2025

CORAM:

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

**C.M.A.(MD)Nos.40 of 2025 & 553 of 2024
and
C.M.P.(MD)Nos.498 and 9980 of 2025**

CMA(MD).No.40 of 2025

The Managing Director

Tamil Nadu State Transport Corporation Ltd.,

Kumbakonam Division-IV Ltd.,

Pudukottai.

... Appellant/ Respondent

Vs.

A.Sarojini

...Respondent / Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 04.12.2023 made in M.C.O.P.No.09 of 2023 on the file of Motor Accident Claims Tribunal, Thiruchirapalli and allow this Civil Miscellaneous Appeal.



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C.M.A(MD)Nos.40 of 2025 & 553 of 2024

For Appellant : Mr.A.V.B.Krishnakanth

For Respondent : Mr.N.Sudhagar Nagaraj

C.M.A (MD) No. 553 of 2024

A. Sarojini

... Appellant/ Petitioner

Vs.

The Managing Director

Tamil Nadu State Transport Corporation Ltd.,

Kumbakonam Division-IV Ltd.,

Pudukottai.

...Respondent / Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 04.12.2023 made in M.C.O.P.No. 09 of 2023 on the file of Motor Accident Claims Tribunal, Thiruchirapalli and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.N.Sudhagar Nagaraj

For Respondent : Mr.A.V.B.Krishnakanth



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COMMON JUDGMENT

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

The Appellant / Respondent / Transport Corporation has filed this Civil Miscellaneous Appeal in C.M.A.(MD)No.40 of 2025 against the fair order and decretal order dated 04.12.2023 made in M.C.O.P.No.09 of 2023 on the file of Motor Accident Claims Tribunal/Special Subordinate Judge, Thiruchirapalli, with regard to challenge the Quantum and fixing of Negligence.

2. The Appellant / Petitioner has filed the Civil Miscellaneous Appeal in C.M.A.(MD)No.553 of 2024 against the fair order and decretal order dated 04.12.2023 made in M.C.O.P.No.09 of 2023 on the file of Motor Accident Claims Tribunal/Special Subordinate Judge, Thiruchirapalli, for enhancement of compensation.

3. Brief facts of the petition filed by the claimants before the Tribunal are as follows:

a) On 17.07.2022 at about 10.30 a.m. when the petitioner was travelling as a pillion rider in a two-wheeler bearing Registration



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No.TN 45 BE 7004 which was being driven by one Praveenkumar in

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Trichy to Karur Main Road near Thiruchendhurai Vellalar Street Pirivu

Road from east to west direction with due care and caution, at that time, a Government Bus bearing Registration No.TN 55 N 0930 belonging to the Respondent Corporation driven by its driver in a rash and negligent manner at a hectic speed came from the opposite direction dashed against the two-wheeler and caused the accident. Due to the sudden impact of the accident, the petitioner sustained multiple grievous injuries all over the body including a head injury and there was a bone fracture in the right leg.

b) After the accident, the petitioner was immediately taken to the Government Hospital, Trichy and admitted as an inpatient from 17.07.2022 to 29.09.2022 and thereafter taken treatment in a private hospital and she has spent a sum of Rs 2,00,000/- towards medical expenses.

c) At the time of the accident, the petitioner was working in a Textile Shop at Lalgudi and was earning Rs 15,000/- per month. Due to the accidental injuries, the petitioner is unable to lift any weight and has lost her hand grip. She is also unable to sit, stand, run, walk and squat and is incapable of performing her work as she did before. Moreover, she



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has a permanent disability, resulting in loss of income and employment

besides being subjected to great mental agony and hardship.

d) Hence, this petitioner has filed a claim petition for compensation of a sum of Rs 20,00,000/-.

e) In respect of the accident, Jeeyapuram Police had registered a case in Crime No.191 of 2022 under Sections 279 and 337 IPC as against the driver of the Respondent's bus. The accident occurred only due to the rash and negligent driving of the Government bus by its driver. The Respondent's bus belongs to the State-owned Corporation and hence the Respondent, being the owner of the vehicle is solely liable to pay compensation.

4. Brief averments contained in the counter filed by the respondent are as follows :

i) The petition is unsustainable both in law and on facts. The accident did not happen in the manner as set out in the claim petition. In fact, on 17.07.2022 at about 10.30 am, the Respondent's bus driver drove the bus near Jeeyapuram with all care and caution, at that time, a two-wheeler bearing Registration No. TN 45 BE 7004 ridden by its driver along with one pillion rider drove the vehicle in a rash and negligent



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manner without following any road rules. The rider while conversing with the pillion rider and coming from the opposite direction and dashed against the right corner of the bus and caused the accident.

ii) The allegation about age, occupation, Income, nature of injuries, period of treatment, permanent disability and incurring of expenses all are specifically denied as false. The accident occurred only due to the rash and negligent driving of the two-wheeler's rider and not by the Respondent's driver and the rider of the two-wheeler has also contributed to the alleged accident and hence the claim petition is liable to be dismissed with costs.

5. During the trial, on the side of the petitioner, P.W.1 and P.W.2 were examined and Exs.P1 to Exs.P20 were marked. On the side of the respondent, R.W.1 was examined and no exhibit was marked. Ex.C1 was marked.

6. After hearing both parties, the Tribunal allowed the petition and awarded a sum of Rs.57,36,580/- as compensation. The learned Judge directed the appellant/respondent - Corporation to pay the entire award amount within a month.



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7. Aggrieved by the said order, the present Civil Miscellaneous Appeal in C.M.A(MD) No.40 of 2025 has been filed by the Transport Corporation, against the quantum and negligence with the following among other grounds :

a) The trial Court ought to have considered the specific contention that the Appellant Corporation's Bus driver has driven the bus with utmost care and caution. While the petitioner Sarojini who was travelling as a pillion rider in the two-wheeler, one Praveenkumar had driven the two wheeler in a rash and negligent manner came from the opposite direction, without adhering to any traffic rules and regulations and also not wearing a helmet dashed against the right corner of the bus. Thus, the claimant caused the accident.

b) The trial Court failed to consider the contributory negligence on the part of the claimant who did not wear a helmet and thereby suffered a head injury.

c) The trial Court erred in adopting the multiplier method for awarding compensation towards the disability suffered by the claimant. Ex.C1 reveals that the claimant has suffered only 80% disability. In ***United India Insurance Co. Ltd. Vs. Veluchamy [2005 (1) TNMAC 87]***,



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sets out the parameters as to when the multiplier method can be adopted

WEB CODE in the case of injury.

d) The trial Court wrongly adopted the multiplier method for computation of the award under the head of future medical and Attendant charges which is liable to be set aside.

e) The petitioner has not produced any income certificate to prove her income. Moreover, the petitioner sustained only simple injuries not grievous injury, but the Tribunal has erroneously awarded Rs.3 lakhs for pain and suffering. The Tribunal also awarded a larger amount to the petitioner under various heads.

f) The amount claimed under the head of Medical expenses which is marked as Ex.P11 is also exaggerated.

g) In any event, the award of total compensation of Rs 57,36,580/- is highly excessive and needs to be modified. Hence, the appellant seeks to set aside the judgment of the trial Court and allow the Civil Miscellaneous Appeal.

8. Aggrieved by the said order, the Civil Miscellaneous Appeal in C.M.A.(MD)No.553 of 2024 has been filed by the claimant against the order of the trial Court in MCOP.No.09 of 2023 for



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enhancement of the award with the following among other grounds :

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a) The Tribunal did not consider the petitioner's age, at the time of the accident, the petitioner was at the age of 18, she worked in a textile shop, and earned a sum of Rs 15,000/- per month. After the accident, she was not able to earn and she was unmarried.

b) The Medical Board fixed 80% disability to the petitioner, the Hon'ble Supreme Court and various High Courts have held that 80% of disability can be taken as 100% disability. Therefore, the compensation amount is liable to be increased.

c) The trial Court failed to consider the judgment of the Hon'ble Supreme Court in ***Kajal v. Jegdish Chand and Others [2020 (4) SCC 413]*** and in this case, the Court determined the attendant charges as Rs 21,60,000/- for a bedridden 12-year-old girl child. But the trial Court has awarded a very low amount of Rs 20,000/- towards attender charges.

d) The Tribunal has awarded a meagre amount on various heads.

Hence, prayed to set aside the judgment of the trial Court and allow the Civil Miscellaneous Appeal by enhancing the award amount.

9. Heard the learned counsel on either side and perused the



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material available on records.

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10. Since the Civil Miscellaneous Appeals arise out of the judgment in M.C.O.P.No.9 of 2023, the issues, facts, evidence and documents involved in these Civil Miscellaneous Appeals are the same, they are taken up for hearing together and are disposed of by this common judgment.

11. Now, this Court has to decide the following points for consideration :

(1) Whether the accident occurred due to the rash and negligent act of the respondent's bus driver or the claimant caused the accident?

(2) Whether the compensation awarded by the Tribunal is on the higher side?

(3) Whether the compensation awarded is meagre and liable to be enhanced?

12. Point No.1

As per the contention of the appellant the driver of the corporation bus had driven the vehicle with utmost care and caution,



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while the petitioner (pillion rider) and one Praveen Kumar, driver of the two wheeler bearing registration number No.TN 45 BE 7004 conversed with each other and drove the vehicle in a rash and negligent manner, without adhearing traffic rules struck against the right side of the bus and thereby caused the accident, and attributed contributory negligence to the petitioner. However, to substantiate this contention, the appellant has not filed any documents to establish that the petitioner had contributed to the occurrence of the accident.

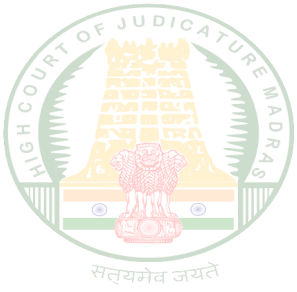
13. The accident took place on 17.07.2022 at about 11.00 hrs. The father of the claimant complained on the same day at about 14.00 hours. Based on the said complaint, FIR was registered in Crime No.191 of 2022 by Jeeyapuram Police Station, Trichy District, against the driver of the respondent/Corporation bus for the offences under Sections 279, 337 of the IPC. However the driver of the appellant's bus did not file any complaint regarding the negligent driving of the two-wheeler. Had the accident had been occurred due to the negligent act of the driver of the two-wheeler, the appellant's bus driver would have complained. Furthermore, the record shows that, soon after the completion of the investigation, the investigating agency filed a charge



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sheet against the driver of the respondent Corporation, against which no action taken by the respondent.

14. The rough sketch prepared by the investigating agency was marked as Ex.P3. The scene of occurrence has been mentioned in the rough sketch on the left side end from Karur to Trichy Road which indicates that the petitioner vehicle was being driven on the correct side of the road viz., left side. The appellant corporation bus while proceeding from Karur to Trichy on the said road was required to keep the vehicle on the left side of the road. The rough sketch depicts that the occurrence took place on the opposite side of the road, where the corporation bus was not expected to ply. This fact categorically establishes that the two-wheeler was being driven on the correct side of the road and the accident occurred solely due to the negligence of the corporation bus which had encroached upon the opposite lane and caused the accident. Furthermore, the investigating officer rightly concluded that the accident occurred due to the negligence of the driver and accordingly filed the final report fixing responsibility solely upon him. Hence, no contributory liability be fastened upon the respondent.



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15. The learned counsel for the appellant further contends

that the claimant was not wearing a helmet at the time of the accident.

However no witness was examined by the Appellant to substantiate this contention. It is also pertinent to note that the respondent did not sustain any serious head injury, but injuries were confined only to the leg.

16. The trial Court taking into consideration the cumulative circumstances held that the driver of the Corporation bus was solely responsible for the accident. We do not wish to interfere with the findings of the trial Court. Point No.1 is answered accordingly.

17. Point No.2

The learned counsel for the Appellant argued that in the absence of any proof of income by the injured the fixation of monthly income of Rs.15,000/- by the Tribunal is erroneous and illegal. Though the claimant has sought compensation for Rs.20,00,000/- the Tribunal granted Rs.57,36,580/- which is highly excessive and liable to be set aside.

18. In the claim petition, the petitioner stated that she was earning a sum of Rs.15,000/- per month while working in a textile shop



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at Lalgudi. However she has not produced any salary certificate to substantiate her claim, she produced Ex.P18 series containing a) Certificate of Diploma in General Duty Nursing Assistant issued by Nursing Institute, Lalgudi, Tiruchirapalli from the period, June 2020 to may 2022 and b) certificate issued by the Director of Board Examination of Centre for Technical and Vocational Development Science, dated 05.05.2022, Ex.P.19, is the certificate issued by Rana Hospital for observer trainee from the period 9.12.2020 to 08.05.2021.

19. The Tribunal also admitted that the claimant has not produced any income proof to substantiate her income but fixed the monthly income at Rs.15,000/- by applying principles and methodology of income arrived by the Apex Court in ***Syed Sadiq etc., vs. United India Insurance Company Limited*** reported in ***2014(1) TNMAC 456***, and taking into consideration of cost of inflation index issued by the Central Board of Direct Tax.

20. It is established that the petitioner completed her Diploma Course in May 2022. The accident occurred on 17.07.2022, within two months of the completion of her Diploma. As per the



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WEB COPY Aadhaar card, the date of birth of the petitioner was mentioned as 13.08.2003. At the time of the accident, the petitioner was approximately

18 years and 10 months old. Although she claimed to be employed in a textile shop, she did not specify the name of the establishment. Moreover, no salary certificate was produced to substantiate her income, and the employer was also not examined to verify her employment.

21. Furthermore, the cost of inflation index is used only to estimate the increase in the price of goods year by year due to inflation which is a concept under the Income Tax Act, 1961. It is used for adjusting the purchase price of a capital asset to account for inflation when computing capital gains. It is not meant for salary calculation or claiming compensation.

22. In Motor Vehicle Accident claim cases to fix the loss of income of a victim at the time of the accident, the claimant must produce relevant evidence of employment. If employed such evidence may include salary slips, appointment letters, or employer certificates, etc., If self-employed, documents such as Income Tax returns PAN Card business licenses, etc. are generally considered.



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23. Admittedly the victim had completed her Diploma Course at the age of 18 years and unfortunately met with an accident within two months after completing her studies. At the time of the accident, she was a fresh Diploma holder and did not produce any certificate to substantiate her income. Taking into consideration her educational qualification, we have fixed income at Rs.12,000/- per month instead of Rs.15,000/- as fixed by the claim tribunal, which appears to be on the higher side.

24. The learned counsel for the appellant further contended that the accident claim Tribunal awarded compensation for permanent disablement at 80% mechanically and the Tribunal failed to follow the judgment rendered in *United India Insurance Company Limited vs. V.Veluchami* for applying the multiplier method. Ex.C1, reveals that the petitioner suffered 80% disablement, but it would not impact the capacity of the petitioner. There was no amputation, but the Tribunal awarded 80% and an interrupted multiplier, which is improper.

25. The petitioner produced Ex.P.5, Ex.P.7 and Ex.P.8, the



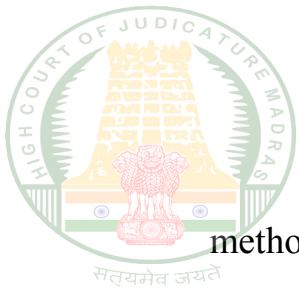
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discharge summaries issued by various Hospitals. These documents indicate that the petitioner was admitted in multiple hospitals and underwent several surgeries for the injuries sustained in the accident. She was advised to continue her treatment. Ex.P12 is a certificate of disability issued by the Government of India establishing that she has an 80% locomotor disability.

26. Ex.C1 is the Medical Board certificate issued by the Chairman Medical Board, Trichy which also confirms that the patient has 80% disability. The certificate further mentions that she is wheelchair-bound and requires a bedpan for toileting.

27. The disability certificates produced by the petitioner established that the disability sustained is not partial but permanent. The petitioner being a Diploma holder in Nursing, was required in the course of her profession to walk extensively across hospital wards and attend to patients. However, owing to the said permanent disability, she is rendered incapable of performing any professional or employment-related activities in the future. Consequently, the trial Court assessed her permanent disability at 80% and adopted the principle of the multiplier



method, which is proper.

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28. In this connection, Hon'ble Supreme Court set down certain guidelines stipulated in the judgement rendered in ***Rajkumar vs. Ajay Kumar and Others*** reported in ***2011 (1) SCC 343*** :

“5. The heads under which compensation is awarded in personal injury cases are the following :

Pecuniary damages (Special Damages)

(i) Expenses relating to treatment, hospitalization, medicines, transportation, nourishing food, and miscellaneous expenditure.

(ii) Loss of earnings (and other gains) which the injured would have made had he not been injured, comprising :

(a) Loss of earning during the period of treatment;

(b) Loss of future earnings on account of permanent disability.

(iii) Future medical expenses.

Non-pecuniary damages (General Damages)

(iv) Damages for pain, suffering and trauma as a consequence of the injuries.

(v) Loss of amenities (and/or loss of prospects of marriage).

(vi) Loss of expectation of life (shortening of normal longevity). In routine personal injury cases, compensation will be awarded only under heads (i), (ii)(a) and (iv). It is only in



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serious cases of injury, where there is specific medical evidence corroborating the evidence of the claimant, that compensation will be granted under any of the heads (ii)(b), (iii), (v) and (vi) relating to loss of future earnings on account of permanent disability, future medical expenses, loss of amenities (and/or loss of prospects of marriage) and loss of expectation of life. Assessment of pecuniary damages under item (i) and under item (ii)(a) do not pose much difficulty as they involve reimbursement of actuals and are easily ascertainable from the evidence. Award under the head of future medical expenses - item (iii) -- depends upon specific medical evidence regarding need for further treatment and cost thereof. Assessment of non-pecuniary damages - items (iv), (v) and (vi) -- involves determination of lump sum amounts with reference to circumstances such as age, nature of injury/deprivation/disability suffered by the claimant and the effect thereof on the future life of the claimant. Decision of this Court and High Courts contain necessary guidelines for award under these heads, if necessary. What usually poses some difficulty is the assessment of the loss of future earnings on account of permanent disability - item (ii) (a). We are concerned with that assessment in this case. Assessment of future loss of earnings due to permanent disability.”

29. For the purposes of calculating loss of earning capacity, the monthly income of the claimant has been fixed at Rs.12,000/- per



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month instead of Rs.15,000/- as claimed. Accordingly, the annual income is computed at Rs.1,44,000 (12,000 x 12). In terms of principles laid down in *National Insurance Limited vs. Pranay Sethi*, reported in **2017 (16) SCC 689**, 40% of the established income is to be added towards future prospectus, since the claimant was only 18 years old at the time of the accident. The annual income comes to Rs.2,01,600/- (Rs. 1,44,000 + 40% of 1,44,000 = Rs 57,600/-).

30. Considering the permanent disability assessed at 80%, the effective annual loss of earning capacity works out to Rs.1,61,280/- (2,01,600x80%). Applying the multiplier of 18 as applicable to the age of the claimant, the total loss of future earning capacity is assessed at Rs.29,03,040/- (Rs 1,61,280x18).

31. We have noticed that the claim Tribunal awarded, Rs.3,00,000/- each for loss of amenities and loss of expectation of life. However, it is pertinent to point out that as per guidelines laid down in **Rajkumar's** case, when compensation is already awarded by treating the loss of future earning capacity as 100% or proportionate to the extent of disability) Separate amounts, under the heads of loss of amenities or loss



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of expectation of life should not be awarded once again, as the same would amount to duplication of compensation, therefore, we feel it appropriate that no compensation needs to be awarded for the expectation of life and for amenities. Further, the trial court awarded attendant's charges twice and we hold that the two attendant's charges are unnecessary. Except for the above, we do not find any irregularity in the compensation awarded by the claim tribunal.

32. We, therefore, modify the award as follows:

Disability compensation (grievous injury)

Rs.(12000+4800)=16800x12x18x80/100 Rs. 29,03,040/-

Medical bills Rs.2,21,280/-

Pain and Sufferings Rs.3,00,000/-

Loss of Marital life Rs.2,00,000/-

Transportation charges Rs.34,500/-

Extra Nourishments Rs.30,000/-

Damages to clothes Rs.2,000/-

Future Medical Expenses and

Attendant charges Rs.7,00,000/-

Total Rs.43,90,820/-

33. Based on the evidence and the legal principle, the claimant would be entitled to a sum of Rs.43,90,820/- as compensation.



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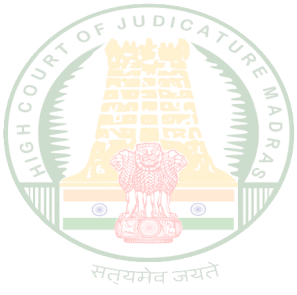
Therefore, this Court modified and reduced the compensation to the tune of Rs.43,90,820/- with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation. Point No.2 is answered accordingly. Though the compensation awarded is higher than the amount claimed by the petitioner, it nevertheless constitutes just compensation for the injury sustained and there is no legal implement in granting the same.

34. Point No.3

Though the claimant has also filed C.M.A.(MD)No.553 of 2024 seeking enhancement of compensation on the ground that the Tribunal failed to consider the disability at 100%, and awarded a meagre sum towards attendant, we are of the view that the Tribunal has duly taken note of the grievance injuries sustained by the claimant and has awarded just compensation. Hence, no further enhancement is warranted.

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In the result, the Civil Miscellaneous Appeal is dismissed and the award is modified and reduced as in C.M.A.(MD)No.40 of 2025. No costs.



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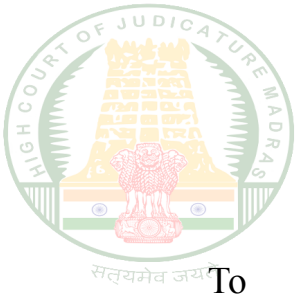
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In the result, the Civil Miscellaneous Appeal is partly allowed. The award passed by the trial Court is modified and the appellant/Transport Corporation is directed to pay a sum of Rs.43,90,820/- to the respondent/claimant along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit of the amount, less the amount if already deposited to the credit of M.C.O.P.No. 9 of 2023 on the file of the Special Subordinate Judge, Motor Accident Claims Tribunal, Tiruchirappalli, within four weeks from the date of receipt of a copy of this order. On such deposit, the claimant is permitted to withdraw the same, less the amount already withdrawn, if any, together with proportionate interest and costs, by filing an appropriate petition before the Tribunal. No costs. Consequently, the connected miscellaneous petitions are closed.

(A.D.J.C., J.) & (R.P., J.)
28.08.2025

Index : Yes / No
NCC : Yes / No

RM



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To
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1. The Motor Accident Claims Tribunal,
Thiruchirapalli

Copy to

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



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

RM

Judgment in
C.M.A.(MD)Nos.40 of 2025 & 553 of 2024

28.08.2025