



C.M.A.(MD)No.1067 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 25.09.2025

Pronounced on : 23.10.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

and

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.1067 of 2023

and

CMP(MD)Nos.14620 and 11431 of 2025

M/s.Bharti AXA General Insurance
Company Ltd.,
Represented by its Manager,
No.208, 1st Floor,
Royal Road, Cantonment,
Trichy District.

... Appellant / 2nd Respondent

Vs.

1.Manikandan

... 1st Respondent / Claimant

2.S.Murali

... 2nd Respondent / 1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to call for the records pertaining to the fair order passed by the Motor Accident Claims Tribunal / Special Subordinate Judge, Trichirappalli, in M.C.O.P.No.328 of 2019 dated 15.11.2022, set aside the same.



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For Appellant : Mr.P.Pethu Rajesh
For R-1 : Mr.M.Arumugam
For R-2 : No appearance

JUDGMENT

(Judgment of the Court was made by **L.VICTORIA GOWRI, J.**)

This Civil Miscellaneous Appeal is directed against the judgment and decree passed in M.C.O.P.No.328 of 2019 on the file of the Motor Accident Claims Tribunal / Special Subordinate Judge, Trichirappalli, dated 15.11.2022.

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

3. *The facts of the Case required for the disposal of the appeal in nutshell are as follows:*

On 10.03.2019, while the petitioner was riding a two wheeler bearing Registration No.TN 55 AB 9662 near Thethur Bus Stop, Thuvarankurichy, on Madurai to Chennai National Highways Main Road, a Maruti Wagon R car bearing Registration No. TN 11 X 8379, belonging to the 1st respondent and



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insured with the 2nd respondent which was driven by its driver in a rash and negligent manner, collided with the petitioner's two-wheeler. Due to which, the petitioner sustained severe injuries, including a fracture in the right leg shaft of the femur that required amputation below the hip. The accident was reported to the police, and a case was registered against the driver of the Maruti Wagon R car. The petitioner's future plans, including joining the Indian Air Force and participating in sports, have been severely affected due to the amputation. Hence, the petitioner claims to have incurred significant medical expenses, i.e., an amount of Rs.3,00,000/- (Rupees Three Lakhs only) and is seeking compensation of Rs. 50,00,000/- (Rupees Fifty Lakhs only) for permanent disability, loss of future earnings, and other damages. Claiming that the 1st respondent / vehicle's owner and the 2nd respondent / insurance company are jointly liable for compensation, the claim petition has been filed by the claimant.

3. In order to prove the case of the claimant, before the learned Tribunal, the claimant was examined as P.W-1 and Exhibits P-1 to P-12 were marked. Neither any witness was examined nor any documents were marked on the side of the respondents. One Court document Ex.C-1 (Disability Certificate) was marked.



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4. Upon considering the oral and documentary evidence, the learned Tribunal had come to the conclusion that the accident had occurred solely due to the rash and negligent driving of the driver of the Maruti Wagon R car. Based on the oral and documentary evidence let in before the learned Tribunal, an amount of Rs.51,38,729/- (Rupees Fifty One Lakhs Thirty Eight Thousand Seven Hundred and Twenty Nine only) has been awarded towards compensation and the 2nd respondent / appellant herein Insurance company was directed to pay compensation along with 7.5% interest per annum including Advocate fee of Rs.69,887/- (Rupees Sixty Nine Thousand and Eight Hundred and Eighty Seven only) from the date of claim petition till the date of deposit within a period of one (1) month from the date of the said order. Assailing the same, the appellant is before this Court.

5. The learned counsel appearing for the appellant submitted that though the appellant has no grievance with regard to the liability, they are aggrieved by the quantum of the compensation awarded, particularly, under the heads towards loss of earning capacity, loss of amenities, loss of expectation of life and pain and sufferings. He would submit that the claimant, a minor, was riding the two wheeler without any valid driving licence at the time of the accident and hence, the liability ought to have been fixed on the claimant. He further submitted that the learned Tribunal had fixed the



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disability of the claimant as 80% by relying upon the report given by the Medical Board which was marked as Ex.C-1 and the disability fixed by the medical board is for the particular injured part in the body and not for the whole body and hence, it cannot be treated as a total disability and compensation cannot be claimed in whole by taking the said disability fixed. Hence, the Tribunal ought to have assessed the total functional disability. On these grounds, the learned counsel prays for allowing the Civil Miscellaneous Appeal.

6. Per contra, the learned counsel for the claimant would submit that the learned Tribunal, after analyzing the age, avocation, and dependency of the family members, had rightly come to the conclusion and had awarded compensation as stated above, which are found to be just and reasonable and hence, prays for dismissal.

7. We have considered the rival submissions and perused the materials available on record.

8. A careful perusal of the materials available on record would reveal that the learned Tribunal has awarded a sum of Rs.3,00,000/- (Rupees Three



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Lakhs only) each towards loss of amenities, expectation of life, and pain and sufferings, which is excessive. Hence, it is modified as Rs.1,00,000/- (Rupees One Lakh only) each. The learned Tribunal has fixed the notional income of the claimant as Rs.15,000/- (Rupees Fifteen Thousand only). However, the claimant failed to provide valid proof of income to prove the same. In view of the same, the notional income of the injured who was a minor at the time of accident, has to be fixed as Rs.7,500/- (Rupees Seven Thousand and Five Hundred only) per month. Since the age of the injured was 17 years at the time of the accident, the relevant multiplier 18 should be taken into consideration. The income of the injured could be arrived at Rs.16,20,000/- (Rupees Sixteen Lakhs and Twenty Thousand only) that is, Rs.7,500/- x 18 x 12. Adopting the proposition in *Pranay Sethi Case*, 40% is calculated towards future prospects and 40% of Rs.16,20,000/- (Rupees Sixteen Lakhs and Twenty Thousand only), that is, Rs.6,48,000/- (Rupees Six Lakhs and Forty Eight Thousand only) is taken towards future prospects. Thus, the total income would arrive at Rs.22,68,000/- (Rupees Twenty Two Lakhs and Sixty Eight Thousand only). As such, 1/3rd deduction towards personal and living expenses, is not liable to be made, in view of the decisions made in ***Raj Kumar vs. Ajay Kumar***¹, following the decision made in *New India Assurance vs. Charlie*, wherein, it has held as follows:

¹ (2011) 1 SCC 343



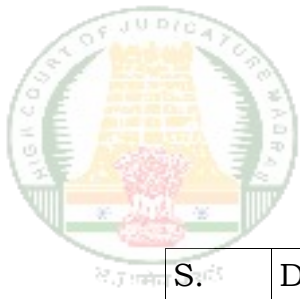
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"In the case of an injured claimant with a disability, what is calculated is the future loss of earning of the claimant, payable to claimant, (as contrasted from loss of dependency calculated in a fatal accident, where the dependent family members of the deceased are the claimants). Therefore there is no need to deduct one-third or any other percentage from out of the income, towards the personal and living expenses."

Therefore, a sum of Rs.22,68,000/- (Rupees Twenty Two Lakhs and Sixty Eight Thousand only), is awarded as a disability compensation for loss of earning capacity to the injured claimant.

9. Considering all the above circumstances, the award passed by the Tribunal is modified as follows:



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S. No.	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed or enhanced
1.	Disability Compensation (Grievous injury)	Rs.36,28,800/-	Rs.22,68,000/-	reduced
2.	Medical Bills	Rs. 5,17,929/-	Rs. 5,17,929/-	confirmed
3.	Loss of Amenities	Rs. 3,00,000/-	Rs. 1,00,000/-	reduced
4.	Loss of Expectation of life	Rs. 3,00,000/-	Rs. 1,00,000/-	reduced
5.	Pain and Sufferings	Rs. 3,00,000/-	Rs. 1,00,000/-	reduced
6.	Attender Charges	Rs. 30,000/-	Rs. 30,000/-	confirmed
7.	Transport Charges	Rs. 30,000/-	Rs. 30,000/-	confirmed
8.	Extra Nourishments	Rs. 30,000/-	Rs. 30,000/-	confirmed
9.	Damages to clothes	Rs. 2,000/-	Rs. 2,000/-	confirmed
	Total	Rs.51,38,729/-	Rs.31,77,929/-	reduced

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.51,38,729/- (Rupees Fifty One Lakhs Thirty Eight Thousand Seven Hundred and Twenty Nine only) is hereby reduced to Rs.31,77,929/- (Rupees Thirty One Lakhs Seventy Seven



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Thousand Nine Hundred and Twenty Nine only).

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11. The appellant / Insurance Company is directed to deposit the compensation amount awarded by this Court with accrued interest and costs to the credit of M.C.O.P.No.328 of 2019 on the file of the Motor Accident Claims Tribunal / Special Subordinate 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 claimant is permitted to withdraw the said amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

[P.V.,J.] [L.V.G.,J.]

23.10.2025

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



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To

The Motor Accident Claims Tribunal /
Special Subordinate Judge,
Trichirappalli.

Copy to

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



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P.VELMURUGAN, J.,

AND

L.VICTORIA GOWRI, J.,

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