



C.M.A.(MD)No.1083 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.06.2025

Pronounced on : 04.08.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.A.(MD)No.1083 of 2022

and

C.M.P.(MD)No.5793 of 2023

The New India Assurance Company Limited,
Jerome Building,
Fort Station Road,
Trichy.

... Appellant/
2nd Respondent

Vs.

1. V.Vahitha Begam

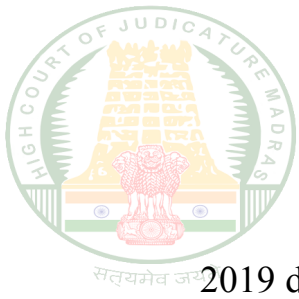
... 1st Respondent/
Petitioner

2. M/s.Jayamurugan Bus Service,
Door No.120/1,
Kavingar Ramalingam Street,
Namakkal Post,
Namakkal District-637001.

... 2nd Respondent/
1st Respondent

(R2 ex-parte in Tribunal : Notice dispensed with)

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the award passed in M.C.O.P.No.410 of



C.M.A. (MD) No. 1083 of 2022

2019 dated 18.07.2022 on the file of the Motor Accidents Claims Tribunal,
Special Sub Court, Tiruchirapalli and allow the appeal with costs.

For Appellant : Mr.J.S.Murali

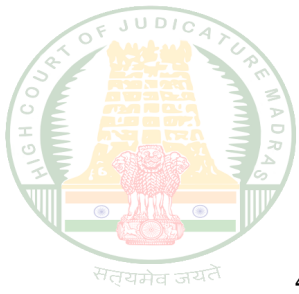
For Respondents : Mr.D.Boopal for R1

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.410 of 2019 dated 18.07.2022 on the file of the Motor Accident Claims Tribunal / Special Sub Court, Tiruchirapalli.

2. The appellant / insurer, who was mulcted with liability to pay compensation of Rs.14,20,059/- (Rupees Fourteen Lakhs Twenty Thousand and Fifty Nine only) with interest at 7.5% per annum and costs to the first respondent / claimant for the disability suffered by her, consequent to an accident occurred on 24.01.2019, challenged the quantum of compensation awarded at, by the Tribunal.

3. During trial, the first respondent / claimant examined herself as P.W.1 and exhibited 5 documents as Ex.P.1 to Ex.P.5. The second respondent / first respondent remained *ex-parte*. The appellant / insurer adduced neither oral nor documentary evidence.



C.M.A. (MD) No. 1083 of 2022

WEB COPY

4. The learned trial Judge, upon considering the pleadings and evidence, both oral and documentary and on hearing the arguments of both the sides, has passed the impugned award dated 18.07.2022 holding that the second respondent / first respondent's driver was responsible for the accident and directed the appellant / insurer to pay compensation of Rs.14,20,059/- (Rupees Fourteen Lakhs Twenty Thousand and Fifty Nine only) with interest and costs. Aggrieved by the impugned award, the insurer has preferred the present appeal.

5. The learned counsel appearing for the appellant / insurer would submit that the first respondent / claimant did not suffer any amputation or permanent disability which would incapacitate her to carry on the avocation for the rest of the life, that the Tribunal, without any basis, has adopted multiplier method for awarding compensation, that the Tribunal ought to have adopted percentage method for awarding compensation, that the first respondent / claimant has not produced any evidence to prove her income but the Tribunal, without any basis, has fixed the monthly income at Rs.14,100/- and that the Tribunal adding 25% towards future prospects and adopting multiplier 14 arrived at disability compensation for loss of



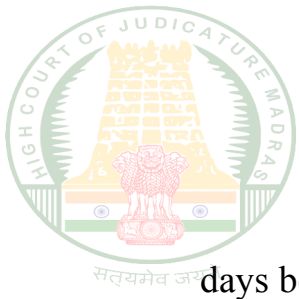
C.M.A. (MD) No. 1083 of 2022

WEB COPY

earning capacity at Rs.7,40,250/-.

6. The learned counsel appearing for the appellant / insurer would further submit that the first respondent / claimant would admit in the cross-examination that Ex.P.4-medical bills consists of duplicate bills for Rs.1,95,857/- and therefore awarding of Rs.3,17,809/- towards medical expenses is perverse and the same cannot be sustained, that the Tribunal, without any evidence, has granted Rs.50,000/- towards future medical expenses, that the Tribunal erred in awarding Rs.50,000/- towards loss of amenities and Rs.50,000/- towards loss of expectation of life, that the Tribunal has also erred in awarding Rs.1,50,000/- towards pain and suffering and the same appears to be on very higher side and that therefore the impugned compensation is liable to be modified.

7. The learned counsel appearing for the first respondent / claimant would submit that the first respondent / claimant sustained serious head injuries i.e., right frontoparietal subdural hematoma and frontotemporal contusion, right frontotemporoparietal craniotomy, evacuation of traumatic hematomas external decompression by removal of bone flap, that the first respondent / claimant had undergone inpatient treatment for more than 11



C.M.A. (MD) No. 1083 of 2022

WEB COPY

days between 24.01.2019 to 04.02.2019 for her injuries at Q Med Hospital and Neuro One Hospital, Trichy, that the Tribunal has rightly appreciated the evidence available on records and adopted multiplier method, that the Tribunal has awarded reasonable amounts under the other heads and that therefore there is nothing to interfere with the reasoned award passed by the Tribunal.

8. The points that arises for consideration are :

- 1) *Whether the Tribunal erred in adopting multiplier method when there is absolutely no evidence to show that the first respondent / claimant has suffered any permanent disability and consequent functional disability?*
- 2) *Whether the Tribunal erred in awarding compensation of Rs.50,000/- for loss of expectation of life in the absence of any evidence or materials to show that the injuries suffered by the first respondent / claimant are severe or life-altering and its impact on the victim's life expectation?*
- 3) *Whether the amount awarded under the various other heads are just and proper and is in accordance with law?*

9. It is pertinent to note that the appellant / insurer has not challenged the liability fixed on it but only questioned the quantum of compensation awarded at by the Tribunal.

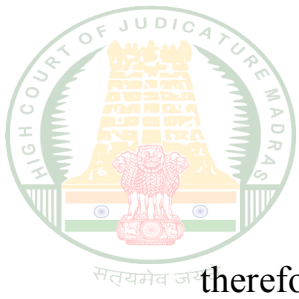


C.M.A. (MD) No. 1083 of 2022

WEB COPY

10. The first respondent / claimant in the claim petition has stated that due to the accident, she sustained multiple injuries all over the body including the right frontoparietal subdural hematoma and frontotemporal contusion, right frontotemporoparietal craniotomy, evacuation of traumatic hematomas external decompression by removal of bone flap, that the first respondent / claimant was admitted in Q Med Hospital, Trichy on 24.01.2019 and was discharged on 26.01.2019 and she was admitted at Neuro One Hospital, Trichy on 26.01.2019 and was discharged on 04.02.2019 and that the first respondent / claimant sustained permanent disability.

11. It is further case of the first respondent / claimant that the first respondent / claimant had spent more than Rs.5 lakhs for hospital charges and medical expenses, that the first respondent / claimant was aged about 42 years at the time of accident and despite best treatment, she could not get her head normally restored and due to the disability, she has been suffering mental agony, loss of memory power and is experiencing pain and becomes unconscious suddenly, that the first respondent / claimant was working as a coolie and was earning Rs.500/- per day and that



C.M.A. (MD) No. 1083 of 2022

WEB COPY

therefore the first respondent / claimant is entitled to get compensation of Rs.15 lakhs with interest and costs.

12. No doubt, the first respondent / claimant has produced the discharge summaries issued by Q Med Hospital and Neuro One Hospital, Trichy under Ex.P.2 and Ex.P.3 respectively. It is evident from Ex.P.2 that the first respondent / claimant was admitted on 24.01.2019 for head injury and was discharged on 26.01.2019. It is further evident that after taking scan on 24.01.2019, they have noticed fracture of right mastoid and squamous part of right temporal bone, acute right cerebral convexity subdural hemorrhage of depth 6.4 mm, right frontal lobe hemorrhagic contusion and basifrontal lobe hemorrhage and on 25.01.2019, after taking scan, they have found that hemorrhagic contusions in bilateral frontal and right temporal lobes, increase in the size of contusions and perilesional edema, a subcentimetric hemorrhagic contusion in right cerebellar hemisphere and after observing, no other significant internal changes, they have proceeded with the conservative treatment and the first respondent / claimant got herself discharged against medical advice. It is evident from Ex.P.3 that the first respondent / claimant was admitted in Neuro One

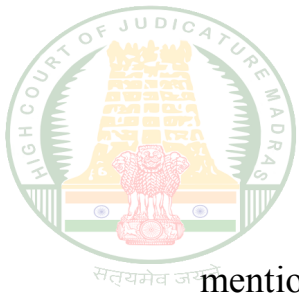


C.M.A. (MD) No. 1083 of 2022

WEB COPY

Hospital on 26.01.2019 and underwent right frontotemporoparietal craniotomy evacuation surgery on 26.01.2019 and was discharged on 04.02.2019 and they have noticed that postoperative course was uneventful.

13. The first respondent / claimant in her evidence would reiterate the claim petition contentions with regard to the injuries suffered and taking treatment in two hospitals. It is pertinent to mention that the first respondent / claimant P.W.1 would admit that she has not produced any records to show that she had taken continuous treatment after discharge from the hospital. As rightly contended by the learned counsel appearing for the appellant / insurer, the first respondent / claimant except producing the two discharge summaries given by two hospitals, hospital bills and CT scan report has not produced any other material records to show the subsequent treatment taken by her. The first respondent / claimant has not chosen to examine any of the Doctor, who had treated her at Q Med Hospital or subsequently in Neuro One Hospital. No doubt, the Medical Board, on examining the first respondent / claimant, has issued a disability certificate fixing the disability at 25%. It is pertinent to note that they have



C.M.A. (MD) No. 1083 of 2022

WEB COPY

mentioned the first respondent/ claimant sustained right fronto parietal craniotomy and fixed the percentage of disability at 25%. Notably, the Medical Board has not stated that the disability is of permanent in nature. Though the first respondent / claimant has alleged that she sustained permanent disability, she has not elaborated anything further. Admittedly, the first respondent / claimant has not produced any iota of evidence to show that she sustained permanent disability and consequent functional disability.

14. The Tribunal has rightly referred the judgment of the Hon'ble Supreme Court in ***Raj Kumar Vs. Ajay Kumar*** reported in ***(2011) 1 SCC 343*** and it is necessary to refer the relevant passages hereunder:-

“9. Therefore, the Tribunal has to first decide whether there is any permanent disability and if so the extent of such permanent disability. This means that the tribunal should consider and decide with reference to the evidence: (i) whether the disablement is permanent or temporary; (ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement, (iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of the entire body, that is the permanent



WEB COPY



C.M.A.(MD)No.1083 of 2022

disability suffered by the person. If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.

....

13. We may now summarise the principles discussed above :

(i) All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.

(ii) The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning capacity is the same as percentage of permanent disability).



WEB COPY



C.M.A.(MD)No.1083 of 2022

(iii) *The doctor who treated an injured-claimant or who examined him subsequently to assess the extent of his permanent disability can give evidence only in regard the extent of permanent disability. The loss of earning capacity is something that will have to be assessed by the Tribunal with reference to the evidence in entirety.*

(iv) *The same permanent disability may result in different percentages of loss of earning capacity in different persons, depending upon the nature of profession, occupation or job, age, education and other factors.”*

15. Moreover, the Tribunal has also referred the decision of the Hon'ble Division Bench of this Court in ***United India Insurance Company Limited Vs. Veluchamy*** reported in ***2005 (1) CTC 38***, wherein, the Hon'ble Division Bench set out the parameters as to when the multiplier method can be applied and the principles laid down therein are extracted hereunder:-

“(a) In all cases of injury or permanent disablement 'multiplier method' cannot be mechanically applied to ascertain the future loss of income or earning power.

(b) It depends upon various factors such as nature and extent of disablement, avocation of the injured and



WEB COPY



C.M.A.(MD)No.1083 of 2022

whether it would affect his employment or earning power, etc. and if so, to what extent?

(c) (1) If there is categorical evidence that because of injury and consequential disability, the injured lost his employment or avocation completely and has to be idle for the rest of his life, in that event loss of income or earnings may be ascertained by applying the 'multiplier method' as provided under the Second Schedule to Motor Vehicles Act, 1988.

(2) Even so there is no need to adopt the same period as that of fatal cases as provided under the Schedule. If there is no amputation and if there is evidence to show that there is likelihood of reduction or improvement in future years, lesser period may be adopted for ascertainment of loss of income.

(d) Mainly it depends upon the avocation or profession or nature of employment being attended by the injured at the time of accident."

16. Considering the above, it is clear that in all cases of injury or permanent disablement, the ascertainment of future loss of income or loss of earning capacity is not automatic. The Tribunal must consider factors like the nature and extent of disablement, avocation of the injured and the impact of the disability on the avocation and the multiplier method cannot



C.M.A. (MD) No. 1083 of 2022

WEB COPY

be applied mechanically. In the case on hand, as already pointed out, the first respondent / claimant failed to demonstrate permanent disability or functional disability. Despite this, the Tribunal applied the multiplier method without proper consideration, rendering its application unjustified.

17. As already pointed out, the Medical Board has certified that the first respondent / claimant has suffered 25% of the disability. Considering the nature of the injuries and the other medical evidence available on record, this Court is inclined to adopt percentage method and taking note of the fact that the accident was occurred in the year 2019, the first respondent / claimant is entitled to get Rs.7,000/- (Rupees Seven Thousand only) per percentage and the disability compensation comes to Rs.1,75,000/- (Rs.7,000 x 25).

18. The first respondent / claimant has produced medical bills under Ex.P.4 and claimed Rs.3,17,809/- towards medical expenses. The learned counsel appearing for the appellant / insurer would submit that the first respondent / claimant in her evidence would admit categorically that Ex.P.4 consists of duplicate medical bills for Rs.1,95,857/- and despite the



C.M.A. (MD) No. 1083 of 2022

WEB COPY

said admission, awarding of Rs.3,17,809/- towards medical expenses is perverse and cannot be sustainable. When the matter was taken up for final hearing, the learned counsel appearing for the first respondent / claimant would fairly concede that there are duplicate bills to the tune of Rs.1,95,857/- and the same may be excluded from the consideration. Considering the above, the first respondent / claimant is entitled to get Rs.1,21,952/- towards medical expenses.

19. The Tribunal's award of Rs.50,000/- for future medical expenses is unsustainable, as rightly contended by the learned counsel appearing for the appellant. There is no medical evidence to support the claim, and the claimant failed to examine a medical officer or produce medical records demonstrating the need for further treatment. Without such evidence, the award for future medical expenses lacks basis.

20. The Tribunal has awarded Rs.50,000/- towards loss of amenities. There is absolutely no evidence to show that the injury sustained by the first respondent / claimant has affected her ability to participate in activities she enjoyed before the accident. Considering the above,



C.M.A. (MD) No. 1083 of 2022

WEB COPY

awarding of Rs.50,000/- is on higher side and the same is reduced to Rs.25,000/-.

21. Compensation for loss of expectation of life is not automatic and requires proof of severe injury significantly impacting the claimant's lifespan or quality of life. Given the claimant's failure to establish permanent or functional disability, awarding compensation under this head is unwarranted.

22. The Tribunal awarded Rs.1,50,000/- towards pain and suffering, as rightly contended by the learned counsel appearing for the appellant / insurer, the same is on higher side. Considering the nature of injuries, period of treatment and other attending circumstances, this Court awards Rs.1,00,000/- for pain and suffering and the amounts awarded under the other heads cannot said to be excessive and therefore are confirmed. Hence, the first respondent / claimant is entitled to get Rs.4,83,952/- (Rupees Four Lakhs Eighty Three Nine Hundred and Fifty Two only) as total compensation and accordingly, the compensation awarded by the Tribunal is modified as follows:-

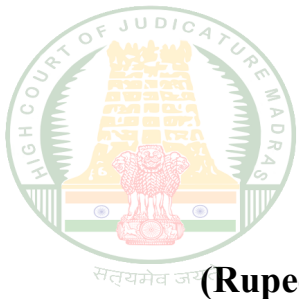


WEB COPY

S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1.	Disability	7,40,250	1,75,000	Reduced
2.	Medical Bills	3,17,809	1,21,952	Reduced
3.	Loss of Amenities	50,000	25,000	Reduced
4.	Loss of Expectation of Life	50,000	Nil	Nil
5.	Attender Charges	30,000	30,000	Confirmed
6.	Pain and Suffering	1,50,000	1,00,000	Reduced
7.	Transportation	10,000	10,000	Confirmed
8.	Extra nourishment	20,000	20,000	Confirmed
9.	Damages to clothes	2,000	2,000	Confirmed
10.	Future medical expenses	50,000	Nil	Nil
	Total	14,20,059	4,83,952	Reduced by Rs.9,36,107/-

23. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs.

24. In the result, this Civil Miscellaneous Appeal stands allowed and the compensation awarded at Rs.14,20,059/- (Rupees Fourteen Lakhs Twenty Thousand and Fifty Nine only) is hereby reduced to **Rs.4,83,952/-**



C.M.A. (MD) No. 1083 of 2022

WEB COPY

(Rupees Four Lakhs Eighty Three Thousand Nine Hundred and Fifty

Two only). The appellant / insurer is directed the deposit the modified award amount with interest at 7.5% per annum from the date of petition till the date of payment, excluding the default period, if any, to the credit of M.C.O.P.No.410 of 2019 on the file of the Motor Accident Claims Tribunal / Special Sub Court, Tiruchirappalli, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent / claimant is permitted to withdraw the amount along with accrued interest and costs, less amount already withdrawn, if any, on due application before the Tribunal. If the amount was already deposited by the appellant, the balance amount shall be withdrawn by them. Parties are directed to bear their own costs. Consequently, connected Miscellaneous Petition is closed.

04.08.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
csm

To:

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



WEB COPY



C.M.A. (MD) No. 1083 of 2022

K.MURALI SHANKAR,J.

csn

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Judgment made in
C.M.A.(MD)No.1083 of 2022
and
C.M.P.(MD)No.5793 of 2023

Dated : 04.08.2025