

C.M.A.(MD) No.518 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.518 of 2024

and C.M.P(MD)No.6850 of 2024

The Manager,
National Insurance Company Limited,
No.1754/1756, Manojiappa Street,
South Main Street,
Thanjavur - 9

... Appellant

vs.

1. Rajamanickam

2. Krishnakumar

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 07.08.2023 passed by the Special District Court to deal with MCOP cases, Thanjavur made in M.C.O.P.No.876 of 2019 and allow this appeal with costs.

For appellant	: Mr.R.Rajamani
For R1	: Mr.P.Edin Brough
R2	: set ex-parte



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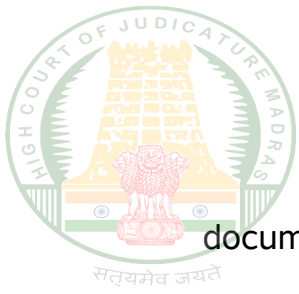
This Civil Miscellaneous Appeal has been preferred by the Insurance Company against the Award dated 07.08.2023 passed in M.C.O.P.No.876 of 2019 by the Special District Court to deal with M.C.O.P. Cases, Thanjavur on the issue of quantum and as regards the issue of negligence.

2. Despite the receipt of notice, the second respondent neither appeared nor entered appearance through his counsel.

3. Heard the learned counsel for the appellant and the learned counsel for the first respondent.

4. Claim petition was filed by the injured claimant under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs. 25,00,000/- for the injuries suffered in a road traffic accident that occurred on 10.01.2019.

5. At trial, to substantiate the claim on the petitioner side, three witnesses were examined and fifteen documents were marked. On the side of second respondent, neither any oral evidence was let in nor any



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document was marked. Ex.C1 is the disability certificate issued by the Medical Board.

6. Upon consideration of records in entirety, and after hearing arguments on either side, the Tribunal fastened the liability upon the second respondent - Insurance Company to pay compensation of Rs.39,02,930/-

7. The functional disability was fixed at 100% by the Tribunal and for computing loss of future income, multiplier method has been invoked and the details of compensation granted by the Tribunal is given hereunder:

“As regards the loss of future prospects - Rs.27,72,000/-, for pain and sufferings - Rs.1,50,000/-, for medical expenses (Ex.P8 and Ex.P9 – Medical bills) - Rs.2,73,431/-, for attender charges - Rs.4,00,000/-, for loss of expectation of life - Rs.2,00,000/-, for transport charges - Rs.5,000/-, for extra nourishment - Rs.1,00,000/-, for damages to clothes - Rs. 2,500/- were granted. Totally, Rs.39,02,931/- rounded off to Rs.39,02,930/-.”

8. It has come on record through P.W1 / Claimant that on 10.01.2019, when he was proceeding in a two wheeler along Thiruvonam



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to Karambakkudi road near Sevvaipatti, a rider of the TVS Excel Super suddenly turned without showing any signal. Due to which, the claimant lost his balance and he fell down on the right side of the road and the claimant was ran over by a TATA Ace Vehicle bearing Registration No.TN-49-AU-1729, which came in a rash and negligent manner and he sustained serious injuries. Due to the rash and negligent driving of the driver of the TATA Ace Vehicle, the accident happened.

9. Two more ocular witnesses have been examined. P.W2 - Nagaraj would state that when the claimant was riding his two wheeler, ahead of his two wheeler, as the rider of the two wheeler TVS Excel turned without showing any signal, the claimant Rajamanickam lost his balance and fell down on the right side of the road and he was ran over by the TATA Ace vehicle as the driver of the said vehicle came in a rash and negligent manner. The above said evidence has been corroborated by the evidence of P.W3. On a careful analysis of the testimonies of three witnesses, the Tribunal has come to the conclusion that it is because of the rash and negligent driving of the driver of the first respondent TATA Ace Vehicle, the accident occurred and the second respondent who is the insurer of the first respondent vehicle is liable to pay compensation. This Court does not find any infirmity or perversity in the finding of the Tribunal and this Court does not find any good reason



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to upset the finding of the learned Tribunal.

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10. From the evidence of P.W1, it is inferable that due to the accident, his left leg above the knee was very seriously injured. He was taken to the Thanjavur Medical College Hospital and he was on admission from 10.01.2019 and for further management, he was admitted at Thanjavur Kalpana Hospital on 14.01.2019. On 15.01.2019, he underwent surgery (Ex.P2). As per Ex.C1 - Disability Certificate, the Thanjavur Medical Board has issued the disability certificate and assessed his disability at 80%. It is relevant to note that as per Ex.P2 – Discharge Summary and Ex.C1 - Disability Certificate, the claimant's left leg below hip was amputated.

11. It is the evidence of P.W1 that he was working in a Gas Company in Malaysia and was earning a sum of Rs.40,000/-. Ex.P15 is the temporary work permit. Ex.P10 is the salary bills. No details as to his nature of work and place of work are found in the said document, namely Ex.P10.

12. How a foreign document has to be admitted is ensconced in Diplomatic and Consular Officers (oaths and fees) Act, 1948. In terms of Section 3(2) of the said Act, the foreign documents are necessarily to be



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authenticated by the Indian Consulate in Malaysia, which would bear the seal of the Indian Consulate. Then the same can be admitted being a foreign document can be marked through a connected person as per Section 273 of Cr.P.C.

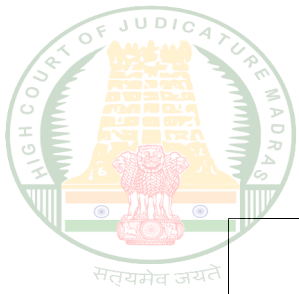
13. Date of accident is 10.01.2019. As per Ex.P12 – Visa, at relevant point of time, the age of the claimant was 39 years. There is no dispute as to the multiplier adopted by the Tribunal ('15' m). Based on the aforesaid details, this Court deems fit to fix the income of the claimant at Rs.16,000/- per month. For computing loss of future income, the following formula emerges:

$$= \text{Rs.}16,000/- \times 12 \times 15 \text{ m}$$

$$= \text{Rs.}28,80,000/-$$

14. For attender charges, the Tribunal has granted a sum of Rs.4,00,000/-, which is reduced to Rs.3,00,000/-. As regards the other heads, the award granted by the Tribunal appears to be reasonable and acceptable and hence, it needs no interference.

15. The compensation granted by the Tribunal is reworked and tabulated and the details are given hereunder:-



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Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	Loss of Future income	Rs.27,72,000/-	Rs.28,80,000/-	Enhanced
2	Pain and Sufferings	Rs.1,50,000/-	Rs.1,50,000/-	Confirmed
3	For Medical Expenses (Ex.P8 & Ex.P9 – Medical Bills)	Rs.2,73,431/-	Rs.2,73,431/-	Confirmed
4	For Attender Charges	Rs.4,00,000/-	Rs.3,00,000/-	Reduced
5	For Transportation Charges	Rs.5,000/-	Rs.5,000/-	Confirmed
6	Extra Nourishment	Rs.1,00,000/-	Rs.1,00,000/-	Confirmed
7	Damage to Clothes	Rs.2,500/-	Rs.2,500/-	Confirmed
	Total	Rs.39,02,931/- Rounded off to Rs.39,02,930/-	Rs.37,10,931/- Rounded off to Rs.37,11,000/-	Reduced

16. Thus, the compensation awarded by the Tribunal is reduced from **Rs.39,02,930/-** to **Rs.37,11,000/-** which would carry interest at the rate of 7.5% per annum.

17. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. There is no order as to costs.

(ii) The Compensation awarded by the Tribunal is reduced from



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Rs.39,02,930/- to Rs.37,11,000 /-.

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(iii) The Appellant / Insurance Company is directed to deposit the modified compensation amount i.e., **Rs.37,11,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of filing of petition till the date of realisation to the credit of M.C.O.P.No.876 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court, Thanjavur, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the 1st respondent / claimant is at liberty to withdraw the same as per the Orders passed by the Tribunal after following due process of law. Consequently, connected miscellaneous petition is closed.

27.02.2025

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

1. The Motor Accident Claims Tribunal,
Special District Court, Thanjavur

2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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R.KALAIMATHI,J.,

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