



C.M.A. (MD) No. 223 of 2025

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Reserved on : 08.04.2026

Pronounced on : 23.06.2026

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.A.(MD) No. 223 of 2025
and
C.M.P.(MD) Nos. 3556 and 13648 of 2025

M/s. National Insurance Company Limited,
represented by its Branch Manager,
No. 31/6 Nathan Arcade,
2nd Floor, Canara Bank upstairs,
New Bye Pass Road, Musiri,
Trichy.

... Appellant/
2nd Respondent

Vs.

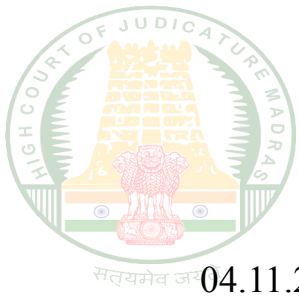
1. Usha

... 1st Respondent/
Petitioner

2. A. Balasubramaniyan

... 2nd Respondent/
1st Respondent

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated



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04.11.2024 passed in M.C.O.P.No.43 of 2023 on the file of the Special Sub Judge / MACT, Tiruchirapalli.

For Appellant : Mrs.P.Malini

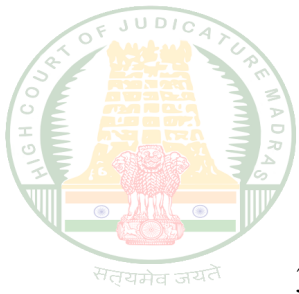
For Respondents : Mr.N.Sudhagar Nagaraj for R1

No appearance for R2

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.43 of 2023 dated 04.11.2024 on the file of the Motor Accident Claims Tribunal / Special Subordinate Court to deal with MCOP cases, Tiruchirappalli.

2. The appellant / insurer, who was mulcted with liability to pay compensation of Rs.16,99,554/- (Rupees Sixteen Lakhs Ninety Nine Thousand Five Hundred and Fifty Four only) with interest at 7.5% per annum and costs payable to the first respondent / claimant, for the disability sustained by her, consequent to an accident occurred on 21.08.2022, challenged the liability fastened on it and also the quantum of compensation awarded at, by the Tribunal.



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3. For the sake of convenience and brevity, the parties hereinafter will be referred to as per their status / ranking in the Tribunal.

4. The case of the claimant is that on 21.08.2022 at about 07.05 p.m., the claimant was travelling in a two wheeler bearing Registration No.TN-45-BK-6709, which was ridden by her husband on Karur Bye Pass road near Criyas Electronics Shop, Trichy, from north to south and while turning towards western side towards ABC Hospital road, an ambulance van bearing Registration No.TN-65-Q-2325, which came in the same direction, in a rash and negligent manner, dashed against the two wheeler and as a result of which, the claimant sustained severe head injuries.

5. It is the further case of the claimant that immediately after the accident, the claimant was taken to ABC Hospital, Trichy and was taking inpatient treatment from 21.08.2022 to 02.09.2022 and again from 19.12.2022 to 27.12.2022, that the claimant before the accident was taking tuition for school students and was earning Rs.15,000/- per month and that the claimant due to the injuries has been suffering from headache,



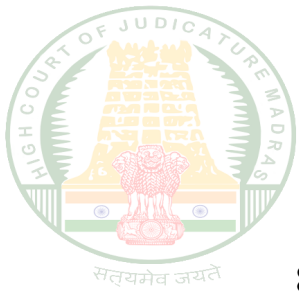
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giddiness, loss of memory, breathing problem and lost her activeness and she is unable to do any work as before and thereby, she has become permanently disabled.

6. The defence of the second respondent / insurer is that the rider of the two wheeler alone rode the vehicle at a great speed and took a turn towards Criyas Electronics without seeing the oncoming ambulance vehicle and dashed against the ambulance and as a result of which, both the rider and the pillion rider fell down and sustained injuries, that the accident was occurred only due to the rash and negligent riding of the two wheeler rider and the ambulance driver was not at fault and that therefore, the claim petition is liable to be dismissed.

7. During trial, the claimant examined herself as P.W.1 and exhibited 14 documents as Ex.P1 to Ex.P14. The first respondent / owner of the ambulance remained ex-parte. The second respondent / insurer summoned and examined the ambulance driver Thiru.Sundaravadivelan as R.W.1 and adduced no documentary evidence. The disability certificate issued to the claimant by the Medical Board came to be exhibited as Ex.C1.



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8. The learned trial Judge, considering the evidence both oral and documentary and on hearing the arguments of both the sides, passed the impugned award dated 04.11.2024 by holding that the ambulance driver was responsible for the accident and directed the second respondent / insurer to pay compensation of Rs.16,99,554/- with interest at 7.5% per annum from the date of petition till the date of deposit and costs. Aggrieved by the said award, the second respondent / insurer has preferred the present appeal.

9. The learned counsel appearing for the second respondent / insurer would mainly contend that the rider of the two wheeler had violated Section 194E of the Motor Vehicles Act and Regulations 2(1)(l) and 27(5) of the Motor Vehicles (Driving) Regulations, 2017 by failing to give way to the ambulance, that the two wheeler rider rode the vehicle in a rash and negligent manner and took a turn near Crijas Electronics without noticing the on-coming ambulance vehicle and dashed against the ambulance vehicle and caused the accident and that therefore, the ambulance driver was not at fault and the two wheeler rider alone was responsible for the accident.

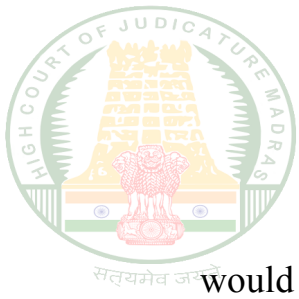


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10. Section 194E of the Motor Vehicles Act deals with failure to allow free passage to fire service vehicles, ambulances or other emergency vehicles and the said provision is intended to ensure unhindered movement of such emergency vehicles. Regulation 2(1)(l) of the Motor Vehicles (Driving) Regulations defines "right of way", which means the right of a vehicle or any other road user to proceed lawfully in preference to another vehicle or road user approaching under circumstances, where there is a possibility of danger or collision, unless one yields precedence to the other. Regulation 27(5) of the Motor Vehicles (Driving) Regulations deals with merging in traffic, which provides that the driver shall not attempt to overtake a vehicle or vehicles ahead of him unless he has stayed long enough in the left-hand lane or the lane in which he had been driving. The above provision is intended to prevent unsafe lane changes immediately after merging into a highway or major road.

11. Generally, the Tribunal is required to determine negligence on the basis of the evidence relating to the manner of the accident occurred. Even assuming for arguments sake that the two wheeler rider failed to give way to the ambulance or violated any traffic regulation, such violation



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would not automatically lead to a finding that the rider alone was responsible for the accident. The ambulance driver, though entitled to priority passage, is expected to drive with reasonable care and caution, having regard to the safety of the other road users.

12. As already pointed out, though the learned counsel appearing for the second respondent / insurer would contend that the two wheeler rider had violated Section 194E of the Motor Vehicles Act and Regulations 2(1)(l) and 27(5) of the Motor Vehicles (Driving) Regulations, they have not adduced any iota of evidence to prove that such alleged violation was the proximate cause of the accident. The fact that a vehicle is an ambulance does not confer an unfettered right to proceed irrespective of traffic conditions and the driver of the ambulance is also bound to exercise due care and caution. The Tribunal, on considering the evidence available on record, has rendered a specific finding that the accident occurred due to the rash and negligent driving of the ambulance driver. In the absence of any material proving contributory negligence on the part of the two wheeler rider, the finding of the Tribunal cannot be found fault with.



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13. The learned counsel appearing for the second respondent / insurer would then contend that the Tribunal erred in applying multiplier method in arriving disability compensation when the claimant herself failed to prove that she suffered functional disability due to the injuries sustained in the accident, that the claimant did not examine any medical officer to speak about the injuries sustained by her, that the Tribunal awarded Rs.1,50,000/- for loss of amenities and again awarded Rs.1,50,000/- for loss of expectation of life, which cannot legally be sustained, that the amounts awarded under the other heads by the Tribunal are very excessive and that therefore, the compensation is liable to be interfered with.

14. Before proceeding further, it is necessary to refer the judgment of the Hon'ble Supreme Court in ***Raj Kumar Vs. Ajay Kumar and another*** reported in ***2011 (1) SCC 343***,

“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



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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 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*



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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).

(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. 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, that the Tribunal is duty bound to take into consideration the various factors such as nature and extent of disablement, avocation of the injured and the impact of the disability on the avocation and that the multiplier method cannot be applied mechanically.



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16. In the case on hand, it is evident from the records that the claimant, after the accident, was admitted in ABC Hospital, Trichy and was given inpatient treatment for the period between 21.08.2022 and 02.09.2022 and again from 19.12.2022 to 27.12.2022 and that the claimant has suffered severe head injuries including temporo parietal acute SDH with herniation and post craniectomy skull defect and craniectomy procedure has been done to the injured claimant. It is evident that the claimant had sustained temporo parietal acute subdural hematoma with herniation and underwent craniectomy. No doubt, the injuries suffered by the claimant are undoubtedly grievous in nature and taking note of the disability sustained, the decision of the Tribunal in applying multiplier method cannot be faulted.

17. The Tribunal, taking note of Ex.P12-Aadhar Card, fixed the age of the claimant as 46 years and the same was not disputed by the second respondent / insurer.

18. The Tribunal, relying upon the decision of the Hon'ble Supreme Court in *Syed Sadiq Vs. United India Insurance Company* reported in



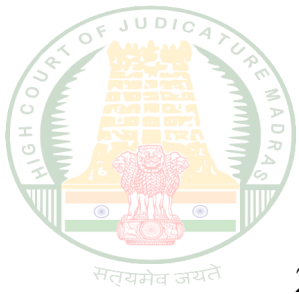
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2014 (1) TN MAC 459, assessed the notional monthly income at Rs.16,000/-. But since the claimant herself had claimed that she was earning only Rs.15,000/-, the Tribunal rightly restricted the monthly income to Rs.15,000/-. The Tribunal has also rightly added 25% of the income towards future prospects and accordingly, arrived at Rs.18,750/- as monthly income.

19. The Medical Board, upon examining the claimant, assessed her permanent disability at 24%. As rightly observed by the learned trial Judge, taking note of the medical evidence available on record, the disability fixed at 24% by the Medical Board cannot said to be excessive.

20. The Tribunal, as per the dictum laid down by the Hon'ble Supreme Court in *Sarla Verma and others Vs. Delhi Transport Corporation and another* reported in *AIR 2009 SC 3104*, taking note of the age of the claimant as 46 years, has rightly applied the multiplier 13 and arrived at the loss of earning capacity at Rs.7,02,000/- and the same cannot be found fault with.



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21. The Tribunal, taking note of the medical bills and also the medical reimbursement made at Rs.4,65,151/-, has rightly awarded the balance amount of Rs.2,81,554/- towards medical expenses.

22. Considering the nature of the injuries and the treatment period, the Tribunal has rightly awarded loss of income for 6 months at Rs.90,000/-. But the Tribunal has awarded a sum of Rs.1,50,000/- each towards loss of amenities and loss of expectation of life. As already pointed out, though the injuries sustained by the claimant are serious in nature, the claimant has not adduced any evidence to show that her life expectancy has been reduced on account of the injuries sustained. In the absence of any such evidence, the amount awarded under the heads of loss of expectation of life cannot be sustained.

23. It is pertinent to mention that once compensation has been awarded under the multiplier method on account of loss of earning capacity, the Court must be cautious not to grant overlapping amounts under other heads, unless there is specific evidence showing that the claimant's enjoyment of life has been substantially curtailed or that the



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injuries have materially affected life expectancy. No doubt, though the claimant is entitled to a reasonable compensation towards loss of amenities, the award of Rs.1,50,000/- under the said head appears to be on higher side, having regard to the nature of injuries and the percentage of disability. Considering the above, the award under the head of loss of expectation of life is liable to be set aside and the compensation awarded towards loss of amenities is liable to be reduced and is accordingly reduced to Rs.1,00,000/-.

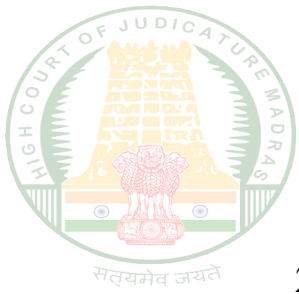
24. The Tribunal, taking note of the evidence of the claimant as well as the medical evidence, has awarded Rs.1,00,000/- towards future medical expenses. The Tribunal, considering the nature of the injuries and the consequent disability sustained, period of treatment and other attending circumstances, awarded Rs.1,50,000/- for pain and sufferings, Rs.34,000/- for attender charges, Rs.20,000/- for transportation charges, Rs.20,000/- for extra nourishment and Rs.2,000/- for damages to clothes and other valuables and that the said amounts cannot said to be on higher side. Accordingly, the compensation awarded by the Tribunal is modified as follows:-



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S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted or reduced
1.	Disability Compensation	7,02,000	7,02,000	Confirmed
2.	Medical Bills	2,81,554	2,81,554	Confirmed
3.	Loss of Income	90,000	90,000	Confirmed
4.	Loss of Amenities	1,50,000	1,00,000	Reduced
5.	Loss of Expectation of Life	1,50,000	Nil	Nil
6.	Attender Charges	34,000	34,000	Confirmed
7.	Pain and Sufferings	1,50,000	1,50,000	Confirmed
8.	Transportation charges	20,000	20,000	Confirmed
9.	Extra Nourishment	20,000	20,000	Confirmed
10.	Damages to clothes and other valuables	2,000	2,000	Confirmed
11.	Future Medical Expenses	1,00,000	1,00,000	Confirmed
	Total	16,99,554	14,99,554	Reduced by Rs.2,00,000/-



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25. 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.

26. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.16,99,554/- (Rupees Sixteen Lakhs Ninety Nine Thousand Five Hundred and Fifty Four only) is hereby reduced to **Rs.14,99,554/- (Rupees Fourteen Lakhs Ninety Nine Thousand Five Hundred and Fifty Four only)** together with interest at 7.5% per annum and costs. The appellant / insurer is directed to deposit the modified award amount with interest and costs from the date of petition till the date of realization excluding the default period, if any, to the credit of M.C.O.P.No.43 of 2023 on the file of the Motor Accident Claims Tribunal / Special Subordinate Court to deal with MCOP cases, Tiruchirappalli, after deducting 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 together with interest and costs, less amount already withdrawn, if any, on due application before the Tribunal.



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If the amount was already deposited by the appellant / insurer, the balance amount shall be withdrawn by them. Consequently, connected Miscellaneous Petitions are closed. Parties are directed to bear their own costs.

23.06.2026

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

- 1.The Special Subordinate Judge to deal with MCOP cases,
Motor Accident Claims Tribunal,
Tiruchirappalli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A. (MD)No.223 of 2025

K.MURALI SHANKAR,J.

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Pre-Delivery Judgment made in
C.M.A.(MD)No.223 of 2025
and
C.M.P.(MD)Nos.3556 and 13648 of 2025

Dated : 23.06.2026