

C.M.A(MD)No.618 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 03.06.2026

PRONOUNCED ON: 25.06.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.618 of 2026

Muthusamy

: Appellant/Petitioner

Vs.

1.Arumugam

2.M/s Metro TIN Containers,
No.3/220, Thiraviyanathapuram,
Rosalpatti, Virudhunagar District – 626 002.

3.United India Insurance Company Limited,
No.254, Good Shed street,
Madurai – 625 001.

4.United India Insurance Company Limited,
No.37/2, Mattappa Street,
Neel complex, 2nd floor,
Tenkasi, 2nd floor, Tenkasi – 627 811.

: Respondents /Respondents

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988 against the order passed in M.C.O.P.No.214 of 2019, on the file of the Motor Accident Claims Tribunal cum Principal Subordinate Court, Tenkasi, dated 11.12.2025.



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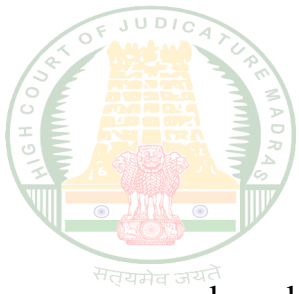
For Appellant : Mr.K.Esakkidurai

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.214 of 2019, dated 11.12.2025, on the file of the Motor Accident Claims Tribunal / Principal Subordinate Court, Tenkasi.

2. The appellant/claimant who was awarded with compensation of Rs.2,49,000/- with interest and costs for the disability sustained by him, consequent to an accident occurred on 23.03.2019, challenged the compensation awarded by the Tribunal and claimed enhancement of the same.

3. The learned Counsel for the appellant/claimant would submit that the Tribunal erred in mechanically accepting the latest disability certificate issued under Ex.C.3, dated 03.04.2025, showing lesser percentage of 8% partial permanent disability, without assigning reasons for discarding the disability certificates issued earlier, that the medical



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board has issued the first disability certificate under Ex.C.1 dated 03.03.2022 stating that the claimant suffered 15% partial permanent disability and subsequently issued the second disability certificate under Ex.C.2 dated 13.07.2024, stating that he suffered 30% partial permanent disability, that the Tribunal has failed to correlate the discharge summary under Ex.P.2, treatment particulars under Ex.P.5 and the accident register under Ex.P.7 with the disability certificate, that the claimant was running a tea shop, that due to the fracture sustained, he is unable to do the work of tea master as well as parotta master and that though the claimant suffered functional disability, the Tribunal failed to apply the multiplier method.

4. 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 cases, where the Tribunal on the basis of evidence, concludes that percentage of loss of earning*



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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.”

5. Considering the above, it is very much 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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6. It is evident from the records that the claimant sustained bone injuries on his left shoulder and he was treated at Tirunelveli Medical College Hospital, Tirunelveli. It is evident from the discharge summary that he was admitted on 23.03.2019 and surgery was performed on 02.04.2019 and was discharged on 10.04.2019. It is further evident that after the accident occurred, the claimant went to the Government Hospital, Srivilliputhur and after first aid, he was referred to Government Rajaji Hospital, Madurai.

7. It is not in dispute that the medical board attached to the office of the Joint Director of Health Services, Tenkasi District, upon examining the claimant, issued the disability certificate under Ex.C.1, dated 03.03.2022, wherein the medical board certified that the claimant suffered 15% partial permanent disability. During the pendency of the claim petition, at the instance of the claimant, the medical board, upon examining the claimant, again issued the second disability certificate under Ex.C.2, dated 13.07.2024, wherein they have certified that the



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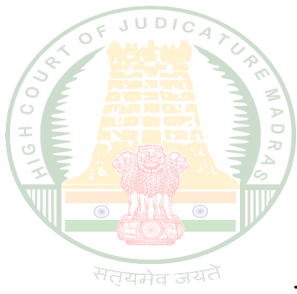
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claimant suffered 30% partial permanent disability and that subsequently, at the instance of the Insurer, the claimant was again referred to the medical board and that the medical board, upon examining the claimant, issued the third disability certificate under Ex.C.3, certifying that the claimant suffered 8% partial permanent disability.

8. No doubt, the claimant summoned and examined the members of the medical board, who issued the disability certificates under Exs.C.1 and C.2 as P.W.2 and P.W.3 respectively. It is pertinent to note that the third disability certificate came to be marked through P.W.3 who was a member of the medical board which issued the disability certificate under Ex.C.3. P.W.3 in his cross-examination has deposed

“நான் வழங்கிய நீ.மா.சா.2 ஆவணத்தில் தற்போதைய குறைபாடு சம்பந்தமான column ல் எந்த குறிப்பும் குறிப்பிடப்படவில்லை என்று சொன்னால் சரிதான். நான் வழங்கிய ஊனச் சான்றில் பஸ்வறு column கள் குறிப்பிடாமல் வழங்கியுள்ளதா என்றால் சரியான ஊனச் சான்றாக ஏற்றுக்கொள்ளமுடியாது என்று சொன்னால் சரிதான். “

9. He would admit that x-ray was not taken on the date of their

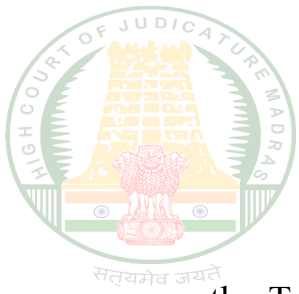


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examination on 19.07.2024. Admittedly the claimant has not taken any steps to summon any members of the medical board, who issued Ex.C.3 disability certificate. It is pertinent to mention that in Ex.C.3 certificate, the board has given all the particulars and made necessary calculations and arrived at the disability at 8.3% and rounded to 8%. As already pointed out, the claimant suffered single fracture on his left shoulder and necessary surgery was performed by fixing a plate and except that bone injury, the claimant has not suffered any other injury. On considering the entire evidence available on record and more particularly the medical evidence adduced, the Tribunal has rightly accepted the disability certificate issued under Ex.C.3, showing that the claimant suffered 8% partial permanent disability. But the claimant has not shown that he suffered permanent disability or functional disability. Hence, the decision of the Tribunal in applying the percentage method cannot be found fault with. The Tribunal has awarded Rs.8,000/- per percentage of disability and granted Rs.64,000/- towards disability compensation and the same cannot be faulted.

10. The learned Counsel for the appellant would then contend that

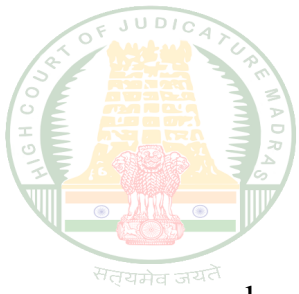


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the Tribunal has fixed the notional monthly income at Rs.10,000/-, that the claimant was running a tea shop and was also a parotta master and that he was getting monthly income at Rs.15,000/-, but the Tribunal without any basis has fixed the notional monthly income and awarded Rs.60,000/- towards loss of income and the same is on lesser side.

11. Admittedly, the claimant has not produced any iota of evidence to show that he was running a tea shop and was also working as parotta master and the income he was earning. In the absence of any evidence to prove the income, the Tribunal taking note of the avocation, has fixed the notional monthly income at Rs.10,000/- and taking note of the treatment period, has rightly awarded Rs..60,000/- towards loss of income for six months and the same cannot be found fault with.

12. The learned Counsel would further contend that the Tribunal has awarded Rs.50,000/- towards pain and suffering, Rs.30,000/- towards loss of convenience, Rs.10,000/- towards attendant charges, Rs.10,000/- for transport expenses, Rs.25,000/- towards extra nourishment and all the amounts awarded are very meagre and that the same are liable to be



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enhanced.

13. Considering the nature of injuries suffered and the consequent disability sustained, the period of treatment and the other attending circumstances, the Tribunal has awarded Rs.50,000/- for pain and sufferings, Rs.30,000/- for loss of convenience, Rs.10,000/- towards attendant charges, Rs.10,000/- for transport charges and Rs.25,000/- for extra nourishment and the same are reasonable and the same cannot said to be on lower side.

14. Considering the above, the total compensation awarded by the Tribunal at Rs.2,49,000/- is very much reasonable and the same does not warrant any interference. The appellant/claimant has not canvassed any other reason or ground to impugn the award. Consequently, this Court concludes that the Civil Miscellaneous Appeal is devoid of merits and the same is liable to be dismissed.

15. In the result, the Civil Miscellaneous Appeal is dismissed. The parties are directed to bear their own costs.



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NCC : Yes : No

Index : Yes : No

Internet : Yes : No

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To

1. The Motor Accident Claims Tribunal /
Principal Subordinate Court, Tenkasi.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.



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K.MURALI SHANKAR,J.

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PRE-DELIVERY JUDGMENT MADE IN

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