

C.M.A(MD)No.1151 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 10.04.2026

PRONOUNCED ON:23.06.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.1151 of 2025

and

C.M.P.(MD)Nos.16237 of 2025 and 3452 of 2025

The Branch Manager,
United India Insurance Company Limited,
Door No.5, 1st Floor, N.S.Complex,
Varatharaja Nagar, Cumbum Road,
Thenkarai, Periyakulam,
Theni District.

: Appellant/2nd Respondent

Vs.

1.Prasantha Jariyal

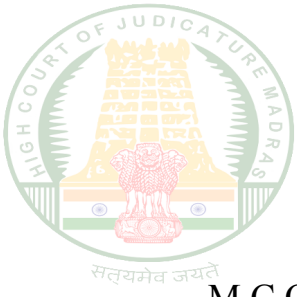
: 1st Respondent / Petitioner

2.Rajaguru

: 2nd Respondent/1st Respondent

(No relief sought against
2nd Respondent. Hence, notice
not necessary for 2nd Respondent)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act,1988 against the award dated 23.04.2024 passed in



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M.C.O.P.No.300 of 2021, on the file of the Motor Accident Claims Tribunal (Special Sub Court), Dindigul.

For Appellant : Mr.I.Robert Chandra Kumar

For Respondents : Mr.S.Pugalendhi

for R.1

: R.2 – notice not necessary

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.300 of 2021, dated 23.04.2024, on the file of the Motor Accident Claims Tribunal / Special Subordinate Court to deal with M.C.O.P., cases, Dindigul.

2. The appellant/Insurer who was mulcted with the liability to pay compensation of Rs.44,38,600/- with interest and costs to the first respondent / claimant for the disability sustained by him, consequent to an accident occurred on 11.11.2020, challenged the quantum of compensation awarded by the Tribunal.



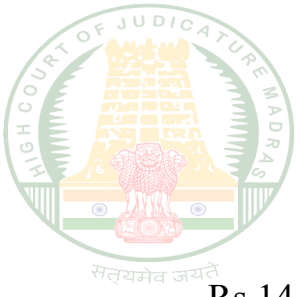
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3. When the appeal was taken up for final hearing, the learned Counsel for the appellant/Insurer would submit that they are not challenging the liability mulcted on it, but they are only questioning the quantum of compensation, as the same is excessive.

4. The learned Counsel for the appellant would submit that the Tribunal without any basis erroneously awarded exorbitant sum of Rs.44,38,600/- as compensation, that the Tribunal without any basis fixed the notional monthly salary at Rs.14,000/-, but the salary certificate of the injured reveals that he was getting only Rs.9,178/-, that though the medical board has assessed the disability of the injured at 80%, the Tribunal erroneously fixed the functional disability at 100%, that the Tribunal instead of awarding 7.5% interest erroneously awarded 9% interest per annum and that therefore, the impugned compensation awarded by the Tribunal is liable to be interfered with.

5. The learned Counsel for the claimant/injured would submit that the Tribunal, in the absence of any records to show the income has rightly applied the settled legal positions and fixed the monthly salary at

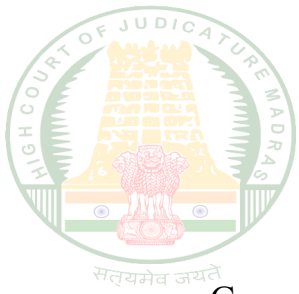


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Rs.14,000/-, that the Tribunal has rightly added 40% of the income towards future prospects, that since the claimant's right leg before the knee was amputated, the medical board has assessed the permanent disability at 80% and taking note of the avocation of the injured, the Tribunal has rightly fixed the functional disability at 100% and arrived at the future loss of income at Rs.42,33,600/-, that the Tribunal, without considering the period of inpatient treatment and the restriction of the claimant's mobility, has only awarded Rs.10,000/- towards attender charges and that the amounts awarded under the other heads are also on lower side and that therefore, the impugned compensation awarded by the Tribunal is liable to be enhanced.

6. It is evident from the records that the claimant sustained injuries on right thigh, right leg, head and face and the injuries all over the bodies, that the claimant, after the accident was admitted in Dindigul Government Headquarters hospital and after first aid treatment, he was referred to Madurai Rajaji Government Hospital and was given inpatient treatment from 12.11.2020 to 01.02.2021 and that the claimant's right leg below knee was amputated and that the medical board attached to the



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Government Medical College Hospital, Dindigul District, upon examining the claimant, has assessed the permanent disability at 80%.

7. 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 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 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.”



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8. According to the claimant, he was employed as a Spinning Sider in Sree Velayuthasamy Spinning Mills Unit II at Vittalnaickenpatti, Dindigul West Taluk. It is his further case that due to the below knee amputation of right leg and other bone injuries, he is unable to continue his employment as a spinning sider. The learned Counsel for the claimant placed reliance on the judgment of the Division Bench of this Court in ***Managing Director, Tamil Nadu State Transport Corporation (CBE) Ltd., Vs. Karthikeyan and others*** reported in ***2023(2) TN MAC 552 (DB)***, wherein the Tribunal, taking note of the assessment made by the medical board and fixing the disability at 80%, fixed the functional disability also at 80% and the Division Bench of this Court, finding fault with the decision of the Tribunal, has held that since the injured has become 100% functional disablement, the functional disability is liable to be fixed at 100%.

9. Considering the medical evidence available on record and also the avocation of the claimant, the Tribunal, though the medical board has assessed the disability at 80%, has fixed the functional disability at 100% and the same cannot be found fault with.



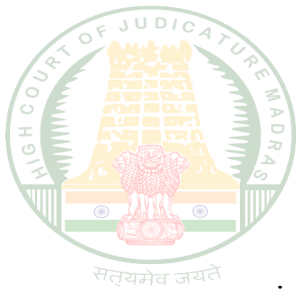
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10. The appellant/Insurer filed an application under Order 41 Rule 27 C.P.C., for reception of additional evidence in C.M.P.(MD)No.3452 of 2026. The Insurer in the above petition has taken a stand that as per the salary certificate issued by the claimant's employer ie., Sree Velayuthasamy Spinning Mills Unit II, Dindigul, the claimant was earning a sum of Rs.9,178/- only, but the Tribunal erroneously fixed a sum of Rs.14,000/- as monthly notional income, that despite their concerted efforts, they were unable to produce the salary certificate before the Tribunal and that since the salary certificate is a necessary document, the same is liable to be received as additional evidence or else, they will be put to irreparable loss and hardship

11. The learned Counsel for the claimant has raised serious objection to the above petition for additional evidence.

12. The learned Counsel for the claimants would submit that the claimant himself in the claim petition has stated that he was employed as a Spinnin Sider in Sree Velayuthasamy Spinning Mills, Dindigul and was

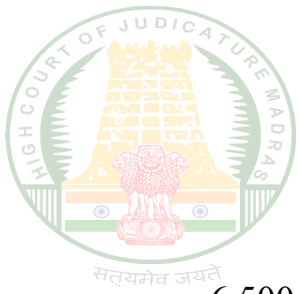


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earning Rs.20,000/-. Though the Insurer has alleged that they have received the salary certificate of the injured from his employer, admittedly the same was not produced before the Tribunal. In the affidavit filed in support of the petition filed under 41 Rule 27 C.P.C., it has been specifically stated that the said salary certificate was received only after the commencement of the trial, but they have not given any reason for not producing the same before the conclusion of the trial. Moreover, as rightly contended by the learned Counsel for the claimant, they have not summoned the salary records or accounts and registers from the said Mill to prove the contents of the salary certificate. It is pertinent to note that the Insurer has miserably failed to show the existence of the ingredients for reception of additional evidence. Consequently, this Court concludes that the above petition is absolutely devoid of merits and the same is liable to be dismissed.

13. The Tribunal, in the absence of any records to show the income of the injured, has rightly followed the judgment of the Division Bench of this Court in *Andal and others Vs. Avinav Kannan* reported in **2019(1) TNMAC 54**, wherein taking the monthly income fixed at Rs.



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6,500/- for a vegetable vendor by the Hon'ble Supreme Court in ***Syed Sadiq, etc., Vs. Divisional Manager, United India Insurance Co., Ltd.***, reported in ***2014(1) TNMAC 459 (SC)*** has applied the cost inflation index issued by the Central Board of Direct Tax and fixed the notional monthly income of the deceased and on that basis, the Tribunal, has rightly fixed the monthly income at Rs.14,000/- p.m., and the same cannot be faulted with. As per the judgment of the Hon'ble Supreme Court in ***National Insurance Company Vs. Pranay Sethi and others*** reported in ***2017(2) TNMAC 609 (SC)***, the Tribunal, taking note of the age of the injured as 20 years at the time of accident, has rightly added 40% of the income towards future prospects. As per the dictum laid down in ***Sarla Verma and others Vs. Delhi Transport Corporation and another*** reported in ***2009(2) TNMAC 1 (SC)***, the Tribunal has rightly applied the multiplier “18” and arrived at the future loss of income at Rs. 42,33,600/- and the same cannot be found fault with.

14. Since the claimant had taken treatment in Government Hospital, the Tribunal has rightly held that the claimant was not entitled to get any amount towards medical expenses. The learned Counsel for



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the claimant would mainly contend that the amount of Rs.10,000/- awarded for attender charges is very meagre, taking note of the period of treatment and the nature of the disability sustained. As already pointed out, it is not in dispute that the claimant was taking inpatient treatment from 12.11.2020 to 01.02.2021. Considering the period of treatment and the nature of disability sustained, this Court is inclined to award Rs. 50,000/- towards attendant charges.

15. Considering the nature of injuries and the consequent disability sustained, the period of treatment and other attendant circumstances, the Tribunal has awarded Rs.10,000/- for transportation charges, Rs.50,000/- for extra nourishment, Rs.5,000/- towards damages to clothing and articles and Rs.1,00,000/- for pain and sufferings, Rs.30,000/- for loss of amenities are reasonable and the same cannot said to be excessive. Consequently, this Court concludes that the claimant is entitled to the total compensation of Rs.44,78,600/-, as follows:



Sl. No	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed or enhanced or granted
1	For future loss of earning capacity	42,33,600	42,33,600	confirmed
2	For Medical expenses	--	--	---
3	For Transportation charges	10,000	10,000	confirmed
	For extra nourishment	50,000	50,000	confirmed
	For damages to clothing and articles	5,000	5,000	confirmed
	For pain and sufferings	1,00,000	1,00,000	confirmed
	For attender charges	10,000	50,000	enhanced
	For loss of amenities	30,000	30,000	confirmed
	Total	Rs. 44,38,600	Rs. 44,78,600	enhanced

16. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in *Surekha and others vs. Santosh and others* (C.A.No.476 of 2020 dated 21.01.2020) wherein, the Hon'ble Apex Court reiterated that even in the absence of any appeal or cross-appeal by the claimant seeking enhancement, the Court is duty bound to ensure that just compensaton is awarded and the relevant paragraphs are extracted hereunder.



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“2. This appeal takes exception to the judgment and order dated 04.01.2019 passed by the High Court of Judicature at Bombay, Bench at Aurangabad in First Appeal No.2564 of 2016, whereby the High Court, even though agreed with the stand of the appellants that just compensation amount ought to be Rs.49,85,376/- (Forty-Nine Lakh Eighty-Five Thousand Three Hundred Seventy-Six Only), however, declined to grant enhancement merely on the ground that the appellants had failed to file cross-appeal.

3. By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants.”

17. Considering the facts and circumstances, this Court holds that the claimant is entitled to get interest at the rate of 7.5% per annum from the date of petition till the date of realization.

18. In the result, the Civil Miscellaneous Appeal is dismissed The compensation awarded by the Tribunal to the claimants is enhanced from



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Rs.44,38,600/- to Rs.44,78,600/- along with interest at 7.5%pa., from the date of petition till the date of realization and costs. The appellant – Insurance Company is directed to deposit the entire award amount along with accrued interest and costs, to the credit of above said M.C.O.P.No. 300 of 2021, on the file of the Motor Accident Claims Tribunal / Special Subordinate Court, Dindigul, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment and on such deposit, the claimant is permitted to withdraw the same, on filing appropriate application before the Tribunal. The parties are directed to bear their own costs. The claimant is directed to pay the court fee for the enhanced compensation, and the Registry is directed to draft the decree only after the payment of Court fee. Consequently, the connected Civil Miscellaneous Petition is dismissed. The Civil Miscellaneous Petition in C.M.P.(MD)No.3452 of 2026 is also dismissed.

23.06.2026

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

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



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K.MURALI SHANKAR,J.

SSL

PRE-DELIVERY JUDGMENT MADE IN

C.M.A(MD)No.1151 of 2025

23.06.2026