



C.M.A. (MD) No.5 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.04.2026

Pronounced on : 24.06.2026

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.A.(MD)No.5 of 2023

and

C.M.P.(MD)No.32 of 2023

M/s.National Insurance Co. Ltd.,
through its Divisional Manager,
Bharathidasan Salai,
Cantonment, Trichy.

... Appellant/
2nd Respondent

Vs.

1.R.Ganesan

... 1st Respondent/
Petitioner

2.A.Uthirapathy

... 2nd Respondent/
1st Respondent

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree dated 29.08.2022 passed in M.C.O.P.No.905 of 2015 on the file of MACT / Special Sub Judge, Trichirapalli.



C.M.A. (MD) No.5 of 2023

WEB COPY

For Appellant : Mrs.P.Malini

For Respondents : Mr.N.Sudhagar Nagaraj for R1

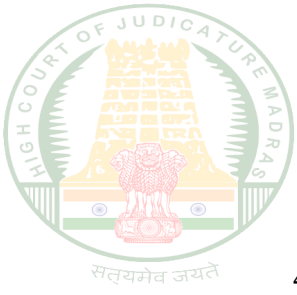
R2 – Given up

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.905 of 2015 dated 29.08.2022 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.9,09,484/- (Rupees Nine Lakhs Nine Thousand Four Hundred and Eight Four only) with interest at 7.5% per annum and costs to the first respondent / claimant, for the disability sustained by him, consequent to an accident occurred on 23.05.2015, challenged the liability mulcted on it and also the quantum of compensation awarded at, by the Tribunal.

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

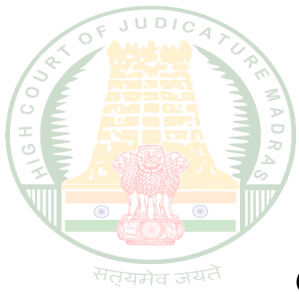


C.M.A. (MD) No.5 of 2023

WEB COPY

4. The case of the claimant is that on 23.05.2015 at about 07.25 p.m., when the claimant was riding his two wheeler bearing Registration No.TN-45-AP-2131 from north to south nearing Iyampatti Madha Rice mill, a mini van bearing Registration No.TN-55-M-7672 belonging to the first respondent and insured with the second respondent, which was negligently stopped by its driver on the middle of the road, without any indicator or signal and after noticing the same, the claimant tried to stop his two wheeler and applied brake and despite the efforts, the two wheeler dashed against the back side of the mini van and caused the accident and that the accident was occurred only due to the carelessness and negligence on the part of the mini van driver.

5. The defence of the second respondent / insurer is that the mini van was parked on the left side of the north south road near Iyampatti Madha Rice mill putting parking light, that the two wheeler ridden by the claimant came in a rash and negligent manner and without control dashed against the mini van and caused the accident and that the claimant alone was responsible for the accident and the mini van driver was not at fault.

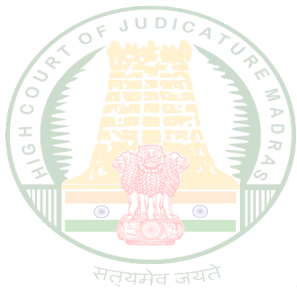


C.M.A. (MD) No.5 of 2023

WEB COPY

6. It is pertinent to note that the accident and the involvement of the mini van bearing Registration No.TN-55-M-7672 and the two wheeler bearing Registration No.TN-45-AP-2131 are not in dispute and the only dispute is as to who was responsible for the accident.

7. The claimant examined himself as P.W.1 and narrated about the manner of the accident and according to him, the mini van driver negligently stopped his vehicle on the middle of the road without any indicator or signal and after noticing the parked vehicle on the middle of the road, he applied his brake immediately and despite his efforts to stop the vehicle, it dashed against the back side of the mini van. Though P.W.1 was subjected to cross-examination, his evidence with regard to the manner of accident remains unchallenged. It is pertinent to note that FIR came to be registered in Crime No.162 of 2015 on the file of the Navalpattu Police Station against the mini van driver. Though the second respondent / insurer has taken a defence that the mini van driver was not at fault and the two wheeler rider alone was responsible for the accident, they have not chosen to examine the mini van driver or any other person, who allegedly witnessed the accident.



C.M.A. (MD) No.5 of 2023

WEB COPY

8. As rightly contended by the learned counsel appearing for the claimant, there is absolutely no contra evidence with regard to the negligence and the Tribunal, considering the evidence available on record, has rightly come to the conclusion that the accident was occurred only due to the carelessness and negligence on the part of the mini van driver and the same cannot be found fault with.

9. Now turning to the quantum of compensation, the learned counsel appearing for the second respondent / insurer would mainly contend that the Tribunal, despite serious objections raised with regard to the genuineness of the medical bills produced, has proceeded to award a sum of Rs.7,22,184/- towards medical expenses.

10. The learned counsel appearing for the claimant would submit that the claimant was admitted at Retna Global Hospital, Trichy and he got inpatient treatment for three periods and that the Tribunal, considering the medical bills produced, has rightly awarded a sum of Rs.7,22,184/- and hence, the same does not warrant any interference.



C.M.A. (MD) No.5 of 2023

WEB COPY

11. It is pertinent to note that the Medical Board attached with Mahatma Gandhi Memorial Government Hospital, Trichy, issued a disability certificate under Ex.C1 stating that there was nil disability. No doubt, the claimant examined P.W.2 private medical practitioner, who issued a certificate under Ex.P20 stating that the claimant suffered partial permanent disability at 48% but considering the medical evidence available on record, the Tribunal has rightly rejected the evidence of P.W.2 and the certificate issued by him under Ex.P20 and taking note of the disability certificate issued by the Medical Board, has proceeded to award a sum of Rs.50,000/- for the grievous injuries sustained by the claimant. No doubt, when the claimant suffered fractures requiring treatment and hospitalization, grant of Rs.50,000/- towards grievous injuries cannot said to be excessive, merely because the Medical Board fixed nil disability.

12. Considering the injuries suffered, period of treatment and other attending circumstances, the Tribunal has awarded Rs.50,000/- for pain and sufferings, Rs.30,000/- for attender charges, Rs.10,000/- each for transportation charges and extra nourishment and Rs.1,000/- for damages to clothes and other valuables and that the same cannot be found fault



C.M.A. (MD) No.5 of 2023

WEB COPY

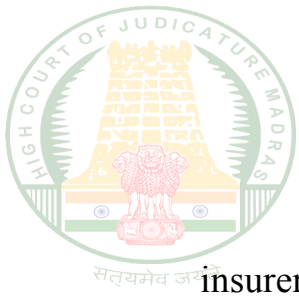
with. The Tribunal, by fixing the monthly income of the claimant at Rs.12,100/-, has awarded Rs.36,300/- for loss of income and the same also cannot be found fault with.

13. Regarding the medical expenses, the Tribunal accepted Ex.P3 and Ex.P4 in their entirety and awarded a sum of Rs.7,22,184/-, without subjecting the claim to proper scrutiny.

14. It is evident from Ex.P5 to Ex.P7 discharge summaries that the claimant was initially admitted on 23.05.2015 and discharged on 05.06.2015. Thereafter, he was admitted from 15.07.2015 to 20.07.2015 and again from 28.08.2015 to 07.09.2015.

15. The claimant has produced the medical bills under Ex.P3, which includes advance payment receipts as well as receipts for full and final settlement and he has also produced three discharge bills along with certain other receipts under Ex.P4.

16. The learned counsel appearing for the second respondent /



C.M.A. (MD) No.5 of 2023

WEB COPY

insurer has raised serious doubts regarding the genuineness of the bills produced under Ex.P4. As rightly pointed out, the three discharge bills dated 02.06.2015, 20.07.2015 and 07.09.2015 were allegedly issued only on 23.11.2015, 24.11.2015 and 24.11.2015 respectively. Moreover, the said bills bear the signature of one S. Sivabakiyam. Despite the specific objection raised by the insurer, the claimant has neither established the identity of the said person nor explained his or her connection with the hospital. The first discharge bill shows payment of Rs.1,08,370/- towards surgeon's fees to Dr. Praveen Dhas, Rs.25,000/- towards Assistant Surgeon's fees to Dr. Kalyana Sundaram and Rs.2,500/- towards Anaesthetist's fees to Dr. Saravanan. Similarly, the second discharge bill reflects payment of Rs.23,540/- towards surgeon's fees to Dr. Praveen Dhas, Rs.10,000/- towards Assistant Surgeon's fees to Dr. Kalyana Sundaram and Rs.3,500/- towards Anaesthetist's fees to Dr. Vijaya Kanna. The third discharge bill records payment of Rs.42,610/- towards surgeon's fees to Dr. Praveen Dhas, Rs.15,000/- towards Assistant Surgeon's fees to Dr. Kalyana Sundaram and Rs.5,000/- towards Anaesthetist's fees to Dr. Vijaya Kanna.

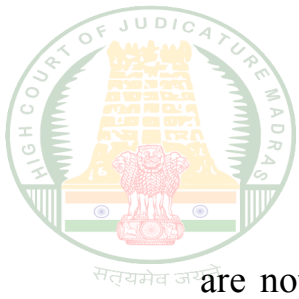


C.M.A. (MD) No.5 of 2023

WEB COPY

17. As rightly contended by the learned counsel for the insurer, though substantial amounts are shown as having been paid to the treating doctors, the claimant has not produced any vouchers or receipts issued by the respective medical practitioners. Likewise, though the discharge bills include amounts towards post-hospitalisation laboratory charges, X-ray charges, doctor's consultation charges and pharmacy charges, they have not produced any supporting bills or receipts. More importantly, Ex.P3 series contains computer-generated receipts for full and final settlement dated 05.06.2015 for Rs.1,60,000/- (page 68), 20.07.2015 for Rs.30,000/- (page 78), 05.08.2015 for Rs.5,000/- (page 80) and 07.09.2015 for Rs.90,000/- (page 81). Despite the issuance of the said receipts towards full and final settlement, the claimant has separately produced the typewritten discharge bills under Ex.P4 claiming substantial amounts under various heads. Notably, while the receipts for full and final settlement are computer-generated, the discharge bills produced under Ex.P4 are merely typewritten.

18. It is true that proceedings under the Motor Vehicles Act are summary in nature and that strict rules of evidence applicable to civil suits

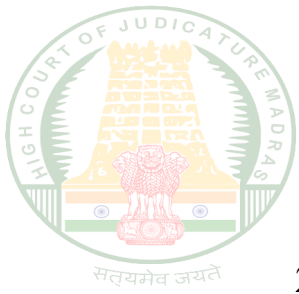


C.M.A. (MD) No.5 of 2023

WEB COPY

are not invariably insisted upon. But at the same time, when the insurer specifically disputes the genuineness of the medical bills and alleges that they were subsequently created for the purpose of the claim, the burden lies upon the claimant to prove their authenticity by adducing satisfactory evidence. In the present case, though the claimant underwent inpatient treatment on three occasions at Retna Global Hospital, he has neither examined any of the treating doctors nor summoned any official from the hospital, including the billing staff, to prove the genuineness of Ex.P4. He has also failed to summon the inpatient records, billing registers, accounts or other hospital records to substantiate the claim.

19. As already pointed out, the amounts allegedly paid towards the fees of the Surgeon, Assistant Surgeon and Anaesthetist are not supported by any receipts or vouchers issued by them. Likewise, though substantial amounts have been claimed towards pharmacy charges in Ex.P4, the claimant has not produced any pharmacy bills. The alleged post-hospitalisation expenses are also not supported by any independent documentary evidence.



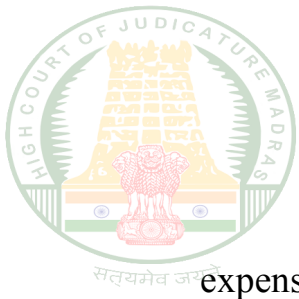
C.M.A. (MD) No.5 of 2023

WEB COPY

20. It is pertinent to note that the Medical Board initially assessed the claimant as having suffered nil permanent disability. Though such assessment does not, by itself, discredit the claim for medical expenses, it certainly warranted closer scrutiny of the unusually high medical claim. Mere marking of the discharge bills does not, by itself, prove that the amounts mentioned therein were actually incurred or paid by the claimant.

21. Considering the above, this Court has no hesitation in holding that the claimant has failed to prove the authenticity and genuineness of the bills produced under Ex.P4, bills but the Tribunal, without properly scrutinizing the claim in its entirety, accepted the claim in toto, which cannot be sustained .

22. It is evident from Ex.P3 series that the claimant has claimed only Rs.1,63,856/- towards medical expenses, excluding the amounts covered under the receipts issued towards full and final settlement. Ex.P3 further reveals that the claimant had paid a total sum of Rs.2,00,000/- towards full and final settlement. Consequently, the claimant is entitled to a sum of Rs.3,63,856/- (Rs.1,63,856/- + Rs.2,00,000/-) towards medical



C.M.A. (MD) No.5 of 2023

expenses. He is not entitled to any amount covered under Ex.P4.

WEB COPY

Accordingly, the total compensation payable to the claimant is re-assessed at Rs.5,51,156/- (Rupees Five Lakhs Fifty-One Thousand One Hundred and Fifty-Six only).

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 is partly allowed and the compensation awarded by the Tribunal at Rs.9,09,484/- is hereby reduced to **Rs.5,51,156/- (Rupees Five Lakhs Fifty One Thousand One Hundred and Fifty Six only)** together with interest at 7.5% per annum and costs. The appellant 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.905 of 2015 on the file of the Motor Accident Claims Tribunal / Special Subordinate Judge, Tiruchirappalli, after deducting the amount already deposited if any, within a period of four weeks from the date of receipt of



C.M.A. (MD) No.5 of 2023

WEB COPY

a copy of this judgment. Thereafter, the appellant / insurer is permitted to recover the same from the second respondent / first respondent as per law.

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. If the amount was already deposited, the balance amount shall be withdrawn by the appellant. Consequently, connected Miscellaneous Petition is closed. The parties shall bear their own costs.

24.06.2026

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

To

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



WEB COPY



C.M.A. (MD)No.5 of 2023

K.MURALI SHANKAR,J.

csn

Pre-Delivery Judgment made in
C.M.A.(MD)No.5 of 2023
and
C.M.P.(MD)No.32 of 2023

Dated : 24.06.2026