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C.M.A.No.2972 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2025

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.2972 of 2025

P.Krishnan

... Appellant

vs.

1.B.Prakasam

2.The Manager,
United India Insurance Company Ltd.,
Micro Office,
No.139, 1st Floor, C.N.Annadurai Road,
Khaderpet, Vaniyambadi,
Vellore-635 751.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment dated 01.03.2024 made in M.C.O.P.No.172 of 2022 on the file of the Motor Accident Claims Tribunal / Principal Sub-Judge, Krishnagiri.

For Appellant : Mr.S.P.Yuvaraj

For Respondents : Mr.J.Michael Visuvasam[R2]
R1 – Notice Dispensed With.

JUDGMENT

The Claimant herein has preferred this Civil Miscellaneous Appeal against the Award dated 01.03.2024 made in M.C.O.P.No.172 of 2022 on



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the file of the Motor Accident Claims Tribunal / Principal Sub-Court,
Krishnagiri, for enhancement of compensation.

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2. Parties are indicated herein as per their litigative status and ranking before the Tribunal.

3.The claimant filed claim petition under Section 166 of the Motor Vehicles Act, 1988, claiming compensation of Rs.30,00,000/- for the injuries sustained on account of the accident that occurred on 24.07.2021.

4. The Tribunal upon consideration of oral and documentary evidence and after hearing the arguments advanced on either side granted compensation of Rs.6,81,781/- with interest at 7.5% per annum from the date of claim petition.

5. The amounts awarded by the Tribunal under various heads are given hereunder:

Sl. No.	Description	Amount awarded by Tribunal
1	For Partial Permanent	Rs.2,50,000/-



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	Disability	
2	For Pain and sufferings	Rs. 90,000/-
3	For Loss of Amenities	Rs. 20,000/-
4	For Extra Nourishment	Rs. 18,000/-
5	For Attender Charges	Rs. 12,000/-
6	For Transport Charges	Rs. 10,000/-
7	For Medical Expenses	Rs.2,09,781/-
8	For Loss of Income during treatment period	Rs. 72,000/-
	Total	Rs.6,81,781/-

6. The learned counsel for the appellant/claimant would argue that the claimant who was 37 years of age suffered right leg both bone fracture [Ramon Gustilo and Anderson type – IIIB] underwent surgery and the District Medical Board assessed his disability as 50%. He underwent two surgeries over the right leg. After the accident, he is not in a position to work as he did before. But the Tribunal adopted percentage method is not correct. It is further put-forth that the claimant is working as vegetable commission agent and earning a sum of Rs.40,000/- per month and the Tribunal has fixed the income of the claimant as Rs.12,000/- is less. Having suffered 50% disability, the amount granted by the Tribunal towards attender charges is inadequate. He would further argue that on account of disability suffered, the claimant is not in a position to work as

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vegetable commission agent as he did before and sought for invocation of multiplier for loss of future income.

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7. Per contra, the learned counsel for the 2nd respondent/Insurance Company would strenuously argue that the Award for attender charges and loss of amenities and for extra nourishment are on the higher side. The claimant has not chosen to file any treatment record to substantiate that he was under continuous treatment. As a vegetable commission agent there may not be any loss of income for the claimant and sought for dismissal of the appeal.

8. It is the evidence of PW1 that on account of the accident, he suffered right leg both bone fracture [Ramon Gustilo and Anderson Type- IIIB]. On the date of accident, he was treated at Government Hospital, Chetpet and wound certificate is Ex.P9. On the next day he was admitted at C.M.C.Hospital, Vellore and got discharged on 05.08.2021. During hospitalisation, he underwent surgery (wound debridement) and right tibia external fixation was done on 25.07.2021. Thereafter, again he was admitted at the same hospital on 16.08.2021 as an inpatient and got discharged on 23.08.2021 wherein on 18.08.2021, IM nailing was done over right leg - (Ex.P1 discharge summary). He was referred before the District Medical Board and District Medical Board has fixed his disability as 4/12



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50% as per Ex.C1 disability certificate. It is relevant to note about the nature of the fracture suffered by the claimant.

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9. According to the size of the wound, soft tissue damage degree of contamination, fracture of both bone fracture is classified by Ramon Gustilo and Anderson. These details are downloaded from Google. It is classified as Type-I, II and III. The details of categorisation are given for better understanding:

Gustilo-Anderson classification

Internationally, for adult and pediatric patients, the modified Gustilo-Anderson classification is widely used. Their initial description was published in 1976, as follows:

1. Type I - Open fracture with a wound less than 1 cm in length, and clean.
2. Type II - Open fracture with a laceration more than 1 cm in length, without extensive soft-tissue damage, flaps, or avulsions
3. Type III - Either an open segmental fracture, an open fracture with extensive soft-tissue damage, or a traumatic amputation.

The description of type III fractures was subsequently further redefined and described by Gustilo in 1984, [6] as follows:

1. Type IIIa - Severe comminution or segmental fractures, but with adequate coverage of bone and a wound that is closeable by simple

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means.

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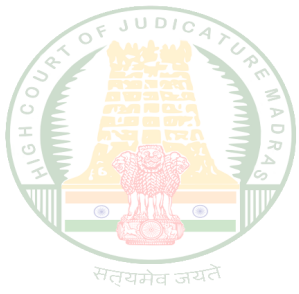
2. Type IIIb - Extensive soft-tissue damage in association with the open fracture, with significant bone exposure and periosteal stripping, typically requiring tissue rotation or free tissue transfer for closure.

3. Type IIIc - Any open fracture with an arterial injury that requires repair.

10. Type-III open fracture involves massive soft tissue damage, wound contamination and fracture instability. To substantiate the avocation and income no document is marked by the claimant. But as a commission agent one has to travel extensively. It is needless to say that he has to walk squat etc. He will definitely find difficulty to do above said activities. However, in consideration of scope of his avocation, disability fixed as 38% as functional disability. Date of accident is 24.07.2021. In consideration of the above said details, his income is taken as Rs.16,000/-.

11. The Hon'ble Supreme Court has given elaborate guidelines under what circumstances, multiplier method can be invoked in injury cases in ***Raj Kumar v. Ajay Kumar*** reported in ***[(2011) 1 SCC 343]***. The principles which are summarised by the Apex Court in the said case are given hereunder:

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"(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."

To put it in a nutshell, the Apex Court is of the view that if a person suffers from permanent disability, either partially or totally, after the period of treatment and recuperation, if the disability affects his performance to attend to his duties and bodily functions depending upon the age, work or



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avocation and the impact and effect of the disability etc, the Court is justified in invoking multiplier method in injury cases.

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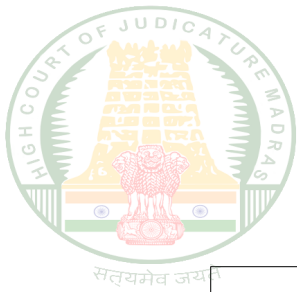
12. At the age of 39 years, the claimant suffered right leg both bone fracture which involves massive soft tissue damage and fracture instability. The disability being suffered by him would affect his work. In order to do complete justice, multiplier method is invoked for calculating amount for the disability suffered by him.

13. As per medical records and Ex.P6 Aadhaar Card, his age is taken as 39 years at the relevant point of time and the relevant multiplier is 15. For computing the loss of future income, the following formula emerges:

$$\text{Rs.16,000/-} \times 12 \times 15\text{m} \times 34\% = \text{Rs.9,79,200/-}$$

14. For attender charges a sum of Rs.13,000/- is granted in addition to the amount already granted by the Tribunal. For loss of earning during the period of treatment, a sum of Rs.16,000/- for 4 months [Rs.16,000/-X 4 = 64,000/-] is granted. As regards other heads, the amounts awarded by the Tribunal appears to be reasonable and acceptable and does not warrant any interference by this Court. Therefore, the Compensation awarded by the Tribunal is reworked and tabulated as under:

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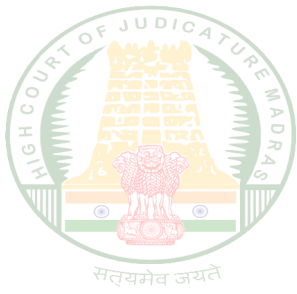


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Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Partial Permanent Disability	Rs.2,50,000/-	Rs.9,79,200/-	Enhanced
2	For Pain and Sufferings	Rs. 90,000/-	Rs. 90,000/-	Confirmed
3	For Loss of Amenities	Rs. 20,000/-	Rs. 20,000/-	Confirmed
4	For Extra Nourishment	Rs. 18,000/-	Rs. 18,000/-	Confirmed
5	For Attender Charges	Rs. 12,000/-	Rs. 25,000/-	Enhanced
6	For Transport Expenses	Rs. 10,000/-	Rs. 10,000/-	Confirmed
7	For Medical Expenses	Rs.2,09,781/-	Rs.2,09,781/-	Confirmed
8	For Loss of Earning during treatment period	Rs. 72,000/-	Rs. 64,000/-	Enhanced
	Total	Rs.6,81,781/-	Rs.14,15,981/-	
	Rounded off to		Rs.14,16,000/-	

15. Thus, the compensation awarded by the Tribunal is enhanced from **Rs.6,81,781/- to Rs.14,16,000/-** which would carry interest at the rate of 7.5% per annum from the date of petition.



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16. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from
Rs.6,81,781/- to Rs.14,16,000/-.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount now determined by this Court i.e., **Rs.14,16,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition **(excluding the period of default, if any)** to the credit of M.C.O.P.No.172 of 2022 on the file of the Motor Accident Claims Tribunal / Principal Sub-Judge, Krishnagiri, within a period of eight weeks from the date of receipt of a copy of this Judgment and then recover the same from the 1st respondent / owner of the Car bearing Registration No.TN-07-BK-1083.

(iv) On such deposit being made, the appellant/claimant is at liberty to withdraw the amount now determined by this Court, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing cheque application before the Tribunal. The claimant is directed to pay the
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Court fee for the enhanced compensation amount, if required. The

Tribunal below shall disburse the enhanced amount upon production of

the certified copy showing proof of payment of Court fee by the claimant.

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Index : Yes/No

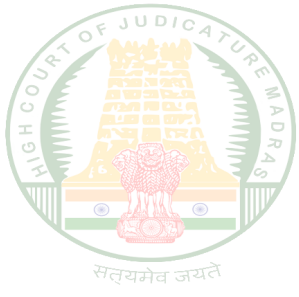
Speaking / Non-speaking order

ssn

To:

1. The Motor Accident Claims Tribunal,
Principal Sub-Judge, Krishnagiri.

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



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R.KALAIMATHI, J.,

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