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C.M.A(MD)Nos.486 and 848 of 2022



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.02.2026

Pronounced on : 30.04.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A(MD)Nos.486 and 848 of 2022

V.Manjuladevi,
W/o.Vijayakanth,
18/47, Nanmaitharuvar Kovil Street,
Madurai – 625 001.

... Appellant in
C.M.A(MD)No.486 of 2022

Sadhyabama @ Sathiyapriya,
W/o.K.Sivakumar,
31-A, Vaniyar 1st Street,
Nethaji Road,
Madurai – 625 001.

... Appellant in
C.M.A(MD)No.848 of 2022

Vs.

1. A.Pandi,
S/o.Alagarsamy,
44-B, Sengamadhan Street,
Nattarasankottai,
Sivagangai.
2. The Branch Manager,
M/s.National Insurance Company,
333/1, Sekkalai Road,
Karaikudi.
3. P.A.Najumudeen,
10-A, Paramakudi Road,
Ilayankudi,
Sivagangai
4. The Branch Manager,
M/s.United Insurance Company Ltd.,
5/328 - D, Sowkath Ali Street,
Paramakudi.

...Respondents in both CMAs



C.M.A(MD)Nos.486 and 848 of 2022

COMMON PRAYER: Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decreetal order, dated 19.10.2016 passed in M.C.O.P. Nos.1064 and 1089 of 2005 on the file of the Chief Judicial Magistrate, Madurai and to allow these Civil Miscellaneous Appeals by directing the 4th respondent before the Tribunal to compensate the petitioner.

In Both Appeals:

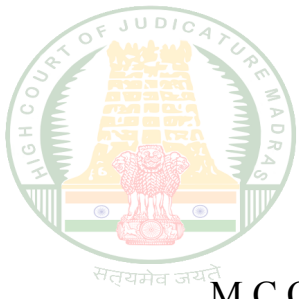
For Appellant	: Mr.B.A.Muruganantham
For R1	: Ms.S.Bharathi
For R2	: Ms.P.Malini
For R3	: No Appearance
For R4	: Mr.C.Jawhar Ravindran

COMMON JUDGMENT

These Civil Miscellaneous Appeals are preferred against the Common Award, dated 19.10.2016 passed in M.C.O.P.Nos.1089 and 1064 of 2005 by the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Madurai.

2.The petitioner/claimant in respective petitions in M.C.O.P.Nos.1064 of 2005 and 1089 of 2005 are the appellants herein.

3.The petitioners/claimants filed the claim petitions in M.C.O.P.Nos.1064 of 2005 and 1089 of 2005 praying for compensation for the injuries sustained by them in a road traffic accident.



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4.For the sake of convenience, the parties as arrayed in

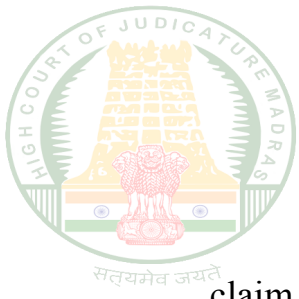
M.C.O.P.Nos.1064 of 2005 and 1089 of 2005 is adopted hereunder.

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5.The brief facts of the case:

On 09.03.2005 at 07.00 a.m., the claimants Manjuladevi and Sadhyabama @ Sathyapriya were traveling in the first respondent's Swaraj Mazda Van bearing registration No.TN 63 D 4807, which was driven by its driver at moderate speed along the Ilayankudi to Sivagangai main road. When the van was coming near Oothukulam bus stop, the third respondent's lorry bearing registration No.TN 63 B 1477 coming from the opposite direction, which was driven by its driver in a rash and negligent manner, dashed against the first respondent's Swaraj Van. Due to impact, the claimants sustained fractures and grievous injuries. Consequently, FIR in Crime No.51 of 2005 was registered against the third respondent's driver by the Sivagangai Taluk Police Station. The claimants were drama actresses and were earning Rs.10,000/- p.m. and Rs.7,000/- p.m. Due to accidental injuries sustained, they were unable to earn. So, they filed MCOP.Nos.1064 of 2005 and 1089 of 2005 seeking compensation of Rs.2,00,000/- and Rs.1,50,000/- respectively.

6.The respondents 1 and 3 remained ex-parte.



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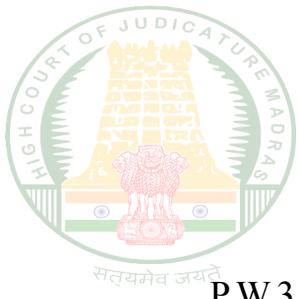


7.The 2nd respondent/National Insurance Company objected to the claim petition and contended that the accident was taken place due to rash and negligent driving of the driver of the third respondent's lorry. Moreover, the first respondent's van driver did not possess a valid driving license. So, they are not liable to pay any compensation.

8.The 4th respondent/United Insurance Company objected by contending that the accident was taken place due to the rash and negligent riding of the first respondent's van driver. In that van, four persons were travelling, in which the petitioner was travelling as gratuitous passenger along with them. The third respondent's lorry driver was driving the lorry at normal speed by observing traffic rules. So, the 4th respondent is not liable to pay any compensation to the petitioners.

9.Before the Tribunal, both sides adduced oral and documentary evidence in MCOP.Nos.1089 of 2005 and 1064 of 2005.

9.1. **In MCOP.No.1089 of 2005**, on the petitioner's side, P.W.1 to P.W.3 were examined and Ex.P.1 to Ex.P.3 were marked. On the side of the respondents, R.W.1 and R.W.2 were examined and Ex.R.1 to Ex.R.3 were marked. In addition, Ex.X.1 was also marked.



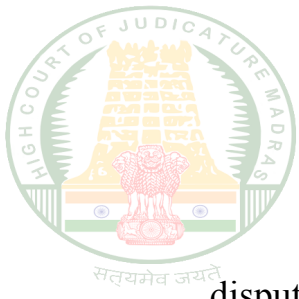
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9.2. In MCOP.No.1064 of 2005, on the petitioner's side, P.W.1 to P.W.3 were examined and Ex.P.1 to Ex.P.12 were marked. On the side of respondents, R.W.1 and R.W.2 were examined and Ex.R.1 to Ex.R.3 were marked. In addition, Ex.X.1 was also marked.

9.3. After hearing both and after considering the evidences, the Tribunal has held that the accident took place due to the rash and negligent driving of the driver of the third respondent's lorry and thereby, the 4th respondent/Insurance Company was held liable to pay compensation. The Tribunal awarded compensation of Rs.44,000/- to the claimant in MCOP.No.1089 of 2005 and compensation of Rs.72,500/- to the claimant in MCOP.No.1064 of 2005.

10. Aggrieved by the said award, the petitioners/claimants have preferred their respective Civil Miscellaneous Appeals. No cross appeal has been filed by the respondents.

11. Heard both sides and perused the records in these Civil Miscellaneous Appeals.



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12. On hearing both sides and on perusal of the records, there is no dispute that the accident took place due to the negligence of the driver of the third respondent's lorry bearing registration No.TN 63 B 1477. The insurer of the said lorry, viz., the 4th respondent, has not preferred any appeal or cross appeal. Therefore, the negligence of the third respondent's lorry driver, as concluded by the Tribunal, is confirmed. The only dispute is with regard to the quantum of compensation awarded by the Tribunal.

C.M.A(MD)No.486 of 2022 (against MCOP No.1064 of 2005)

13.The learned counsel appearing for the petitioner/claimant-Manjuladevi has submitted that the petitioner is aged 53 years, who sustained grievous injuries and fracture in the accident. The medical officer has assessed 37% permanent disability, but the Tribunal has fixed only 20% permanent disability without any basis or any reasoning. The Tribunal has awarded Rs.2,000/- per percentage, which is very meagre. The Tribunal ought to have awarded Rs.3,000/- per percentage of disability, which is settled by the various decisions of the Hon'ble High Courts and Hon'ble Supreme Court. The Tribunal has fixed the notional income at Rs.4,500/- p.m. It is settled principle that notional income can be fixed at Rs.6,500/- in the absence of a salary certificate.



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The Hon'ble Supreme Court in Syed Sadiq case has fixed the notional income as Rs.6,500/- p.m. So, the notional income has to be fixed at Rs.6,500/- p.m. The petitioner underwent treatment as inpatient in three hospitals from 09.03.2005 to 29.03.2005. The Tribunal has failed to consider that the plate, which was fixed at the time of surgery has to be removed in future and thereby failed to award compensation under the head of future medical expenses. Therefore, the petitioner's counsel prayed for the enhancement of the award.

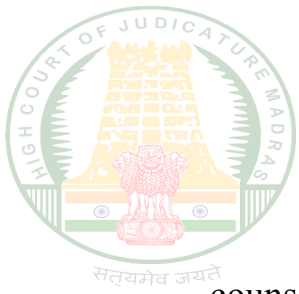
14. The learned counsel for the 4th respondent/Insurance Company has argued that the Tribunal has correctly fixed 20% permanent disability and awarded Rs.2,000/- per percentage. The petitioner has not produced any income proof, hence, the notional income fixed at Rs.4,500/- by the Tribunal is correct, as the petitioner is aged 53 years. Towards pain and suffering, the Tribunal awarded huge amount without considering the treatment.

15. On perusal of the records, it is noted that the petitioner sustained fractures and multiple injuries as seen from Ex.P.5 - X-ray, Ex.P.6 - Discharge Summary. P.W.3 Dr.Sankarlal analysed the injuries sustained by the petitioner and has issued Ex.P.9 - Disability Certificate,



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determining the disability as 37%. The respondent/Insurance Company has not taken any steps to refer the petitioner to the medical board to reassess the disability. But without considering these aspects, the Tribunal has fixed 20% permanent disability without convincing reasoning. The observation of the Tribunal that the P.W.3 doctor has not given treatment to the petitioner is not acceptable. P.W.3 is a competent medical officer, which is not denied by the respondent's side. Perfect compensation is hardly possible, more so the claims of injury and disability point out that ***'money cannot renew a physical frame that has been battered.'*** Therefore, considering the evidence of P.W.3, the permanent disability has to be taken as 37% instead of 20%, which was erroneously fixed by the Tribunal. The Tribunal has granted Rs.2,000/- per percentage of disability. The petitioner's side has insisted for Rs.3,000/-. The Tribunal has granted Rs.3,000/- in another connected case filed by another claimant, who sustained injuries in the same accident. During the course of the argument, the learned counsel for the 4th respondent/Insurance Company has also not raised any objection in granting Rs.3,000/-. Therefore, considering these facts, the amount of Rs. 2,000/- per percentage granted by the Tribunal is modified and the same is increased to Rs.3,000/- per percentage.



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C.M.A(MD)Nos.486 and 848 of 2022



16. In this case, the petitioner was aged 53 years. The petitioner's counsel stated that the petitioner was an drama actresses and she earned Rs.10,000/- p.m. Admittedly, the petitioner has not produced any material to show her vocation. Considering the age of the petitioner and year of the accident, the notional income of Rs.4,500/- fixed by the Tribunal is sustained. The petitioner took treatment for 20 days from 09.03.2005 to 29.03.2005, so the Tribunal has correctly granted two months income under the head of loss of income. In respect of other compensation awarded to other heads, there is no strong contention raised by the petitioner except for future medical expenses. There is evidence that a plate was fixed in the petitioner's hand during surgery and the same has to be removed in future. The Tribunal has failed to consider this aspect and hence, this Court is inclined to award Rs.10,000/- towards future medical expenses.

17. The petitioner took treatment from 09.03.2005 to 29.03.2005 in three hospitals and she incurred medical expenses as can be seen from Ex.P.7 and Ex.P.8. She also underwent prolonged treatment and requires future medical treatment. It is needless to say that a person with permanent disability, that too due to injuries sustained in a road accident, would find it very hard to maintain their day-to-day life, than an ordinary



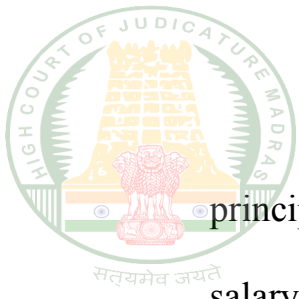
normal man. Therefore, this Court modifies the compensation awarded by the Tribunal and refixes the compensation as follows:

Rs.3,000/- per percent of permanent disability 37% (Rs.3,000/- x 37)	Rs.1,11,000/-
Towards loss of income Rs.4,500 x 2	Rs. 9,000/-
Towards Medical Bill (Ex.P.8)	Rs. 7,500/-
Pain and Suffering	Rs. 10,000/-
Extra Nourishment	Rs. 5,000/-
Towards Transportation	Rs. 500/-
Damage to clothing	Rs. 500/-
Future Medical Expenses	Rs. 10,000/-
Total	Rs.1,53,500/-

18.In view of the above, the appeal in C.M.A.(MD)No.486 of 2022 has to be partly allowed and the compensation awarded by the Tribunal is to be increased to Rs.1,53,500/-.

C.M.A(MD)No.848 of 2022 (against MCOP.No.1089 of 2005)

19.The learned counsel appearing for the petitioner/claimant-Sadhyabama @ Sathiyapriya, has submitted that the petitioner is aged 23 years, who sustained fracture in the accident. The medical officer has assessed 35.1% permanent disability, but the Tribunal has fixed only 10% permanent disability without any basis or any reasoning. The Tribunal has fixed notional income as Rs.4,500/- p.m. It is a settled



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principle that notional income can be fixed Rs.6,500/- in the absence of a salary certificate. The Hon'ble Supreme Court in **Syed Sadiq** case has fixed notional income as Rs.6,500/- p.m. So, the notional income has to be fixed at Rs.6,500/- p.m. Therefore, the petitioner's counsel prayed for the enhancement of compensation awarded by the Tribunal.

20. The learned counsel for the 4th respondent/Insurance Company has argued that the Tribunal has correctly fixed 10% permanent disability, as P.W.3/Doctor did not provide treatment to the petitioner. The petitioner has not produced any income proof, hence, the notional income fixed at Rs.4,500/- by the Tribunal is correct, as the petitioner is aged 23 years. Towards pain and suffering, the Tribunal awarded a huge amount without considering the actual treatment.

21. On perusal of the records, the petitioner sustained a fracture in her right wrist and other injuries as seen from Ex.P.1 - Accident Register Extract, Ex.P.3 - X-ray and Ex.X.1 - Medical Records. On perusal of the oral evidences, P.W.3 - Dr.Sankarlal analysed the injuries sustained by the petitioner and has issued Ex.P.2 - Disability Certificate, determining the disability at 35.1%. The respondent/Insurance Company has not taken any steps to refer the petitioner to the medical board to reassess the



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disability. But without considering these aspects, the Tribunal has fixed 10% permanent disability without convincing reasoning.

The observation of the Tribunal that the P.W.3 doctor has not given treatment to the petitioner is not acceptable. P.W.3 is a competent medical officer, which is not denied by the respondents' side. Perfect compensation is hardly possible, more so the claims of injury and disability point out that '*money cannot renew a physical frame that has been battered.*' Therefore, considering the evidence of P.W.3, the permanent disability has to be taken as 35% instead of 10%, which is erroneously fixed by the Tribunal. The Tribunal has granted Rs.3,000/- per percentage of disability. Both sides have not raised any strong objection in this regard. Therefore, considering these facts, the amount of Rs.3,000/- per percentage granted by the Tribunal is correct.

22. In this case, the petitioner was aged 23 years. The petitioner's counsel stated that the petitioner danced in dramas and she earned Rs.7,000/- p.m. Admittedly, the petitioner has not produced any material to show her vocation. Considering the age of the petitioner and year of accident, the notional income of Rs.4,500/- fixed by the Tribunal is sustained. The petitioner took treatment for only one day. However, the Tribunal has sanctioned one month income under the head of loss of



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income and the same is not disputed. In respect of other compensation awarded under other heads, no strong contention were raised by the petitioner/appellant.

23. It is needless to say that a person with permanent disability, that too due to injuries sustained in road accident, would find it very hard to maintain their day to day life, than an ordinary normal man. Therefore, this Court modifies the compensation awarded by the Tribunal and refixes the compensation as follows:

Rs.3,000/- per percent of permanent disability 35% (Rs.3,000/- x 35)	Rs.1,05,000/-
Towards loss of income Rs.4,500 x 1	Rs. 4,500/-
Towards Medical Bill (Ex.P.8)	Rs. 7,500/-
Pain and Suffering	Rs. 1,000/-
Extra Nourishment	Rs. 2,500/-
Towards Transportation	Rs. 500/-
Damage to clothing	Rs. 500/-
Total	Rs.1,21,500/-

24. In view of the above, the appeal in C.M.A.(MD)No.848 of 2022 has to be partly allowed and the compensation awarded by the Tribunal is to be increased to Rs.1,21,500/-.



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25. In the result,

(i)The Civil Miscellaneous Appeal in C.M.A(MD)No.486 of 2022 is partly allowed with costs. The quantum of compensation awarded by the Tribunal in M.C.O.P.No.1064 of 2005 is modified and enhanced to Rs.1,53,500/- (Rupees One lakh fifty three thousand and five hundred only) from Rs.72,500/-.

(ii)The petitioner/claimant in MCOP.No.1064 of 2005 is entitled to receive a sum of Rs.1,53,500/- with interests and costs.

(iii)The 4th respondent/United India Insurance Company is directed to deposit the entire compensation amount, if already not deposited or less the amount already deposited, together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit to the credit of M.C.O.P.No.1064 of 2005 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Madurai within a period of four weeks from the date of receipt of a copy of this order. The petitioner/claimant is not entitled to interest for default period if any.

(vi) On such deposit being made by the 4th respondent/United India Insurance Company the claimant/appellant herein is permitted to withdraw her entire amount with interest and cost by filing appropriate



application before the Tribunal, less the amount already withdrawn if any.

26. In the result,

(i) The Civil Miscellaneous Appeal in C.M.A(MD)No.848 of 2022 is partly allowed with cost. The quantum of compensation awarded by the Tribunal in MCOP.No.1089 of 2005 is modified and enhanced to Rs.1,21,500/-. (Rupees One lakh Twenty One Thousand five hundred only) from Rs.44,000/-.

(ii)The petitioner/claimant in MCOP.No.1089 of 2005 is entitled to receive a sum of Rs.1,21,500/- with interests and costs.

(iii)The 4th respondent/United India Insurance Company is directed to deposit the entire compensation amount, if already not deposited or less the amount already deposited, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.1089 of 2005 on the file of Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Madurai within a period of four weeks from the date of receipt of a copy of this order. The petitioner/claimant is not entitled to interest for default period if any.

(vi) On such deposit being made by the 4th respondent/United India Insurance Company the claimant/appellant herein is permitted to



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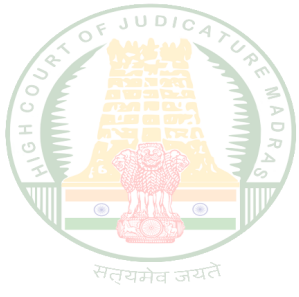
withdraw her entire amount with interest and cost by filing appropriate application before the Tribunal, less the amount already withdrawn if any.

30.04.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Motor Accident Claims Tribunal/
Chief Judicial Magistrate Court,
Madurai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Judgment made in
C.M.A(MD)Nos.486 and 848 of 2022

30.04.2026