

C.M.A.(MD)No.1019 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.02.2026

Pronounced on : 27.04.2026

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

C.M.A.(MD)No.1019 of 2022

M.Arokyasamy,
S/o.Masilamani,
Kalladai (Post),
Thogaimalai,
Kulithalai Taluk,
Trichirapalli District.

... Appellant/Petitioner

Vs.

1.P.Murugesan Pottuvarapatti,
Manaparai Taluk,
Trichirapalli District.

2.The United India Insurance Company Ltd.,
No.78, Kamarajar Salai,
Kaveri Nagar,
Kulithalai Taluk,
Trichirapalli District.

...Respondents/Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to modify the judgment and decree, dated 07.12.2020 in M.C.O.P.No.209 of 2008 on the file of the Motor Accident Claims Tribunal/III Additional Sub Court, Trichirappalli.

For Appellant	: Mr.N.Sudhagar Nagaraj
For R1	: No Appearance
For R2	: Mr.S.Royce Emmanuvel



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JUDGMENT

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The Civil Miscellaneous Appeal is preferred to modify the judgment and decree, dated 07.12.2020 passed in M.C.O.P.No.209 of 2008 by the Motor Accident Claims Tribunal/III Additional Sub Court, Trichirappalli.

2.The petitioner/claimant in M.C.O.P.No.209 of 2008 is the appellant herein.

3.The petitioner/claimant filed the claim petition in M.C.O.P.No.209 of 2008 praying for compensation for the injuries sustained by him in a road traffic accident.

4.For the sake of convenience, the parties as arrayed in M.C.O.P.No.209 of 2008 are adopted hereunder.

5.The brief facts of the case:

On 20.10.2006 at 5.30 p.m., the petitioner was riding his TVS 50 in Manapparai to Kalladai road from south to north near Sengudi Kulakarai. At that time, the 1st respondent's mini bus bearing registration number TN 41 9091, driven by its driver from the opposite direction in a rash and



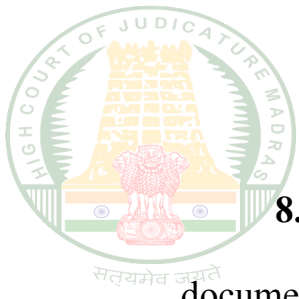
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negligent manner and dashed against the petitioner. Due to the impact, the claimant sustained a fracture in his left leg and grievous injuries on the left side of the face, left eye and other parts of the body. An F.I.R in Crime No.457 of 2006 was registered against the 1st respondent's bus driver by the Manaparai Police Station. The 1st respondent's vehicle was insured with the 2nd respondent/Insurance Company. The claimant was doing agricultural work and selling vegetables, thereby, he was earning Rs.4,000/- per month. Due to the injuries sustained in the accident, he could not earn. Hence, he filed this claim petition seeking compensation of Rs.7,00,000/-.

6.The 1st respondent remained ex-parte.

7.The 2nd respondent/United India Insurance Company objected to the claim petition and contended that the accident did not take place due to the rash and negligent driving of the driver of the 1st respondent's mini bus. The accident took place due to negligence on the part of the petitioner/claimant, who suddenly crossed the road without noticing oncoming vehicles. Moreover, the driver of the 1st respondent's mini bus did not possess a valid driving license. So, they are not liable to pay any compensation to the petitioner.



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8.Before the Tribunal, both sides adduced separate oral and documentary evidence. On the petitioner's side, P.W.1 to P.W.3 were examined and Ex.P.1 to Ex.P.7 were marked. On the side of the 2nd respondent, R.W.1 to R.W.3 were examined and Ex.R.1 to Ex.R.4 were marked. In addition, Ex.X.1 to Ex.X.3 and Ex.C.1 were also marked.

9.After hearing both sides 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 1st respondent's mini bus who drove without a valid driving licence, however, the 2nd respondent/Insurance Company is directed to pay compensation and to recover the same from the 1st respondent in this petition proceeding without filing a separate petition. The Tribunal concluded that the petitioner sustained 40% partial permanent disability and granted Rs.3,000/- per percentage and awarded total compensation of Rs.3,84,550/- under various heads.

10.Aggrieved by the said award, the petitioner/claimant has preferred this Civil Miscellaneous Appeal. There is no cross appeal filed by the respondents.



11. Heard both sides and perused the records in this Civil Miscellaneous Appeal.

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 1st respondent's mini bus bearing registration number TN 41 9091. The insurer of the said mini bus, viz., the 2nd respondent/United India Insurance Company, has not preferred any appeal or cross appeal. Therefore, the finding of negligence on the part of the 1st respondent's mini bus driver, as concluded by the Tribunal, is confirmed. The only dispute is with regard to the quantum of compensation arrived at by the Tribunal.

13. The learned counsel appearing for the petitioner/claimant has submitted that the petitioner/claimant sustained multiple grievous injuries, including a fracture in the left femur, a fracture and grievous injury over the left hip and a fracture injury over the left thigh. The claimant took treatment as an inpatient in two private hospitals from 20.10.2006 to 05.11.2006 and 04.09.2007 to 29.09.2007 further, two surgeries were performed on 21.10.2006 and 09.09.2007. The petitioner/claimant is not able to engage in his agricultural activities due to a fracture of the femur, hip injury and also 3cm shortening of leg. As the occupation of the petitioner/claimant requires



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continuous standing, walking long distances, carrying heavy loads and physical mobility. Because of 3cm shortening of leg, the petitioner/claimant has suffered a loss in his labour capacity. The medical board examined the petitioner/claimant and assessed 40% permanent disability. The Hon'ble Apex Court has held in various cases relating to 40% to 45% functional disability that where permanent disability affects earning capacity, the proper method to be adopted is the multiplier method. The Tribunal has not considered these aspects, but simply awarded Rs.3,000/- per percentage of disability. Therefore, the compensation may be awarded under the multiplier method. In support of his argument, the learned counsel for the petitioner/claimant has relied on the following rulings.

(1) 2011(1) TNMAC 1 (SC) in the case of Rajkumar /v/ Ajay Kumar.

(2) 2015 (1) TNMAC 609 (DB) in the case of Kannayiram /v/ M.Murugesan.

(3) 2024 (1) TN MAC 772 in the case of United India Insurance Co. Ltd., /v/ Francis Bastiyan.

(4) 2024 (1) TN MAC 620 in the case of Sankar /v/ V.Manikandan and United India Insurance Co. Ltd.,

(5) 2024 (1) TN MAC 373 in the case of Ponnusamy /v/ V.Alamelu and New India Assurance Co. Ltd.,



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(6) 2025 (1) TN MAC 660 (DB) in the case of Magma HDI General Insurance Co. Ltd., /v/ Rajkannu and Anr.

(7) 2025 (1) TN MAC 517 (DB) in the case of Reliance General Insurance Co. Ltd., /v/ R.Gopi.

14.The learned counsel for the 2nd respondent/Insurance Company has argued that the petitioner has not proved his functional permanent disability by producing acceptable documents. Since there is no functional disability, the Tribunal has correctly fixed 40% permanent disability and awarded Rs.3,000/- per percentage. As this Court has previously awarded Rs.4,000/- per percentage of disability, so the 2nd respondent/Insurance Company concedes the same as ordered by this Court in its order reported in **2024 (2) TN MAC 780 in the case of Murugesan /v/ K.Saravanan and Others.** The petitioner is not entitled to interest for the default period from 18.08.2010 to 16.10.2014 as ordered by the Tribunal.

15.On perusal of the records, it is seen that the petitioner sustained fractures in the left leg, thigh & hip and multiple injuries as evidenced by Ex.P.2 and Ex.P.3 discharge summary issued by the Manaparai Dhayal Hospital and Trichy Deepan Hospital. P.W.3 - Medical Officer has issued



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disability certificate mentioning 55% partial permanent disability. As held by the Hon'ble Supreme Court and the High Court, the disability has to be assessed by Medical Board. Accordingly, the Medical Board assessed the disability and issued Ex.C.1, mentioning 40% permanent disability. The Tribunal has concluded that since the petitioner/claimant has not established his functional disability, which prevented him from earning more as earlier, it awarded Rs.3,000/- per percentage of disability, as the accident happened in 2006.

16.On perusal of the records, it is seen that the petitioner/claimant has not produced any document to show that he could not earn as he had earned prior to the accident due to the functional disability. The petitioner/claimant's case is that he was doing agricultural work and selling vegetables. The Tribunal has rightly held that the petitioner did not suffer from the loss of earning capacity. Considering the facts and circumstances of the case, the multiplier method need not be adopted in this case and the rulings relied on by the petitioner's side do not apply to the facts of this case.

17.Though the Tribunal has awarded Rs.3,000/- per percentage, according to the ruling relied on by the 2nd respondent/Insurance Company side reported in **2024 (2) TN MAC 780 in the case of Murugesan /v/**



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K.Saravanan and Anr., this Court confirmed Rs.4,000/- per percentage of disability. The learned counsel for the petitioner has also conceded to the award of Rs.4,000/- per percentage of disability. Therefore, considering these facts, the amount of Rs.3,000/- per percentage awarded by the Tribunal is modified and the same is increased to Rs.4,000/- per percentage. Thus, the petitioner/claimant is entitled to Rs.4,000/- per percentage of disability and thereby, the petitioner is entitled to Rs.1,60,000/- towards 40% partial permanent disability (Rs.40,000/- x 40).

18.In this case, the petitioner took treatment in two private hospitals and underwent two surgeries, as seen from the medical records. This was also not disputed by the respondent/Insurance Company. The Tribunal has awarded compensation of Rs.1,00,000/- towards pain and suffering, which is not sufficient for the nature of treatment taken by the petitioner. Hence, this Court is inclined to award Rs.1,50,000/- towards pain and suffering. Regarding other respects, the petitioner/claimant stated that he was aged 45 years and was earning Rs.4,000/- p.m. by doing agricultural work and that he underwent treatment for six months in two private hospitals as inpatient from 20.10.2006 to 05.11.2006 and from 04.09.2007 to 29.09.2007 and as outpatient, incurring medical expenses as seen from medical records Ex.P.2 to Ex.P.7. Therefore, the compensation awarded by the Tribunal under



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others heads was not disputed by both parties and the same are confirmed.

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

1.	Rs.4,000/- per percent of Permanent Disability 40% (Rs.4,000/- x 40)	Rs.1,60,000/-
2.	Pain and Suffering	Rs.1,50,000/-
3.	Amenities	Rs. 50,000/-
4.	Towards Medical Bills	Rs. 33,550/-
5.	Extra Nourishment	Rs. 20,000/-
6.	Attendant Charges	Rs. 20,000/-
7.	Towards Transportation	Rs. 15,000/-
8.	Damage to Cloths	Rs. 2,000/-
9.	Towards Loss of Earning	Rs. 24,000/-
	Total	Rs.4,74,550/-

19.In view of the above, the appeal in C.M.A(MD)No.1019 of 2022 has to be partly allowed and the compensation awarded by the Tribunal is to be increased to Rs.4,74,550/- from Rs.3,84,550/-.

20.In the result,

(i)The Civil Miscellaneous Appeal in C.M.A(MD)No.1019 of 2022 is partly allowed. No costs. The quantum of compensation Rs.3,84,550/- awarded by the Tribunal in M.C.O.P.No.209 of 2008 is modified and



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enhanced to Rs.4,74,550/- (Rupees Four lakhs seventy four thousand five hundred and fifty only).

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(ii)The petitioner/claimant in M.C.O.P.No.209 of 2008 is entitled to receive a sum of Rs.4,74,550/- with interest and costs. The petitioner/claimant is not entitled to interest for the default period from 18.08.2010 to 16.10.2014.

(iii)The 2nd respondent/United India Insurance Company is directed to deposit the entire compensation amount, 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.209 of 2008 on the file of the Motor Accident Claims Tribunal/ III Additional Sub Court, Trichirappalli, within a period of four weeks from the date of receipt of a copy of this order and without interest for the default period from 18.08.2010 to 16.10.2014. The 2nd respondent/United India Insurance Company is entitled to recover the same from the 1st respondent as ordered by the Tribunal.

(vi) On such deposit being made by the 2nd respondent/United India Insurance Company, the petitioner/appellant herein is permitted to withdraw



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

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27.04.2026

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

To

- 1.The Motor Accident Claims Tribunal/
III Additional Sub Court,
Trichirappalli.
- 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)No.1019 of 2022

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