



C.M.A(MD)No.450 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 09.01.2025

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

**C.M.A.(MD)No.450 of 2023
&
C.M.P(MD)No.5685 of 2023**

The Managing Director,
Tamil Nadu State Transport Corporation,
Pudukkottai.

... Appellant/ Respondent

Vs.

R.Dhana Sekara Pandian

...Respondent / Petitioner

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decretal order dated 23.06.2022 made in MCOP No.79 of 2020 on the file of Motor Accident Claims Tribunal, III Additional Subordinate Court, FTC, Trichy and allow this Civil Miscellaneous Appeal.



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For Appellant : Mr.S.C.Herold Singh,
For Respondent : Mr.N.Sudhagar Nagaraj

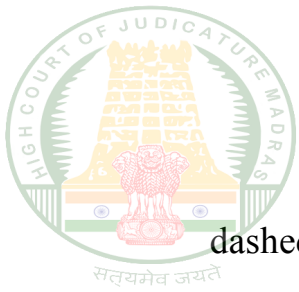
JUDGMENT

(Judgment of this Court was delivered by **R.POORNIMA, J.**)

The appellant / respondent / Transport Corporation has filed this Civil Miscellaneous Appeal against the fair order and decretal order dated 23.06.2022 passed in M.C.O.P.No.79 of 2020 by the Motor Accident Claims Tribunal III Additional Subordinate Court, FTC, Trichy.

2. Brief case of the claimant before the lower Court is as follows:

(i) On 12.06.2018 at about 9.00 p.m., the petitioner was driving his motor cycle bearing registration No.TN-55-AM-1086 TVS Scooty Zest from East to West direction and turned towards South–North direction in a normal speed, adhering to the traffic rules. He was driving carefully on the extreme left side of the road on Pudukkottai – Trichy Road. A bus bearing registration No.TN-55-N-0808 proceeding from the same direction was being driven by its driver in a rash and negligent manner at a high speed and without adhering to the traffic rules. It



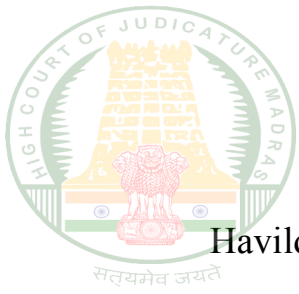
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dashed the motorcycle from behind. Due to the sudden impact of the accident, the petitioner sustained multiple grievous injuries all over his body, including crush injury on his right leg, fracture on his left leg and injury on his left shoulder, cheek and right side of forehead. The petitioner was admitted at KMC hospital on 13.06.2018 as in-patient and his leg below the left knee was amputated on 15.06.2018 and thereafter, he was discharged on 27.06.2018 from the same hospital. Till now, he is undergoing treatment. He had spent more than Rs.10,00,000/- (Rupees Ten Lakhs only) towards medical treatment. His normal condition could not be restored.

(ii) The accident happened due to carelessness, negligence, and rash driving of the bus driver. The bus bearing registration No.TN-55-N-0808 belongs to the State Transport Corporation. Hence, it is exempted from insurance. The respondent alone is liable to pay compensation to the petitioner. The FIR was registered in Crime No.89 of 2018, under sections 279 and 337 IPC.

(iii) At the time of the accident, the petitioner was 39 years old. Before the accident, he was hale and healthy and was working as



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Havildhar Clerk in Military and there by earning a sum of Rs.70,000/-

per month. Due to amputation on his right leg and fracture on his left leg, injury on his left shoulder, cheek and left side of forehead, he is not able to walk, stand, sit and squat and is also suffering from pain due to the injury on his shoulder. He is not able to lift any weight and has lost his hand grip. He is also suffering from facial disfiguration. He is totally disabled due to the accident and is unable to attend his normal work as before. Due to the injuries, he is unable to work. The pain and suffering is unbearable. He is the only earning member in his family. The petitioner requires a lifelong attendant.

Therefore, he prays to award a sum of Rs.2,00,00,000/- (Rupees Two Crores only) as compensation from the respondent.

3.The respondent filed counter as follows:

(i) The petition is false, frivolous and liable to be dismissed.

On 12.06.2018, the driver of the vehicle TN-55-N-0808 took the vehicle from Pudukkottai Bus stop with passengers to Trichy at about 9.00 p.m., near MIOT College and drove the vehicle slowly with caution. At that time, the petitioner came in his two wheeler bearing Registration No.TN-55-AM-1086 TVS Scooty Zest without adhering to the traffic



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rules, carelessly and, without showing hand signal, crossed from right to left. The driver of the Government bus stopped the vehicle by applying break. However, the petitioner came in contact with the bus and fell down and, for this accident, the Transport Corporation is not liable to pay compensation. The petitioner has failed to produce the insurance policy. The burden is on the petitioner to prove that the accident happened due to the negligent act of the respondent driver.

4. On the side of the petitioner, the petitioner was examined as PW1, one Albert Antony Raj was examined as PW2 and Ex.P1 to Ex.P19 were marked. The medical board issued disability certificate which was marked as Ex.C1. Court document Ex.X1 and Ex.X2 were marked through witness P.W.2. On the side of the respondent, driver of the respondent bus, namely, Elamaran was examined as Ex.R1 and no document was marked, on the side of the respondent.

5. After hearing, both side, the, trial, judge awarded compensation of Rs.1,68,34,020/- under the following heads :

Permanent disability	Rs.1,48,83,696/-
Pain and sufferings	Rs.1,50,000/-



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For lack of convenience and discomfort	Rs.1,00,000/-
Medical expenses	Rs.15,70,324/-
Futre Medical expenses	Rs.50,000/-
Extra nourishment	Rs.25,000/-
Nursing	Rs.30,500/-
Travel expenses	Rs.20,000/-
Damages to clothing and articles	Rs.5,000/-
Total	Rs.1,68,34,020/-

The learned Judge directed the respondent Corporation to pay the entire amount within a period of two months.

6. Aggrieved by the said order, the present Civil Miscellaneous Appeal has been filed by the Transport Corporation who is the respondent before the lower Court against the quantum of compensation with the following among other grounds :

i. The award of the lower Court is erroneous and exorbitant, and there is no loss of avocation in view of the injuries.

ii. That the Tribunal is not expected to apply multiplier method.

It is admitted by the petitioner that he is working even after the accident and he had also produced the salary certificate to prove his employment.



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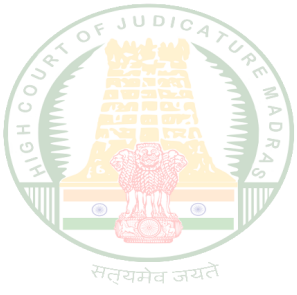
iii. The appellant submits that a perusal of the claim statement filed

by the respondent reveals that no claim is made towards the damage caused to the vehicle and there was no award passed as well. This shows that there was no damage caused to the vehicle driven by the respondent and the accident never took place as alleged by the respondent.

iv. The appellant submits that the respondent was coming from east to west and tried to intersect onto the north-south road without following the traffic rules. While the respondent tried to cross the road from east to north without adhering to the traffic rules, the accident took place owing to the negligent driving of the respondent.

v. The appellant submits that the admission of the respondent that he crossed the road even after seeing the vehicle, would make it clear that the negligence could only be attributed against the respondent.

vi. The appellant submits that the respondent in order to mulct the liability on the appellant, failed to make any claim against the insurance company of his vehicle and the medical claim entitled to be reimbursed by the respondent's employer.



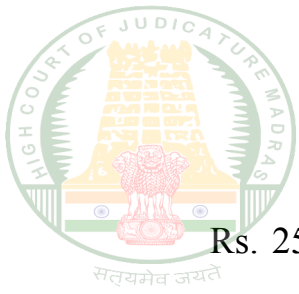
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WEB COPY vii. The appellant submits that while fixing the compensation, the lower Court failed to consider the fact that the respondent received the terminal benefits and it is also admitted that he is receiving Rs.25,000/- towards monthly pension.

viii. The trial Judge failed in applying the multiplier. Moreover, while fixing the compensation, the Judge has calculated 50% towards his future enhancement of income without any basis.

ix. The appellant submits that the respondent has got only 13 years of remaining service. Therefore, the trial Judge ought to have applied split multiplier.

x. The appellant submits that towards the partial permanent disability and for loss of income, a sum of Rs. 1,48,83,696/- was awarded, a sum of Rs. 1,50,000/- was awarded towards pain and suffering, a sum of Rs. 1,00,000/- was awarded towards loss of economy, a sum of Rs. 15,70,324/- was awarded towards medical expenses, a sum of Rs. 50,000/- was awarded towards future medical expenses, a sum of



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Rs. 25,000/- was awarded towards nutrition, a sum of Rs. 20,000/- was awarded towards transportation, a sum of Rs. 30,000/- was awarded towards expenses for assistant and a sum of Rs. 5,000/- awarded towards damage to the dresses. In total a sum of Rs. 1,68,34,020/- was awarded is excessive.

7. The counsel for the respondent/claimant argued that the accident occurred due to the rash and negligent act of the appellant driver and the appellant Corporation is liable to pay the compensation. He further argued that after the accident, the claimant is not able to attend his regular day-to-day activities. After considering the entire evidence, the lower court allowed the compensation which is proper and there is no illegality. He prayed to confirm the order of the trial Court.

8. During the course of arguments, in order to prove his contention, the learned counsel for the respondent/claimant relied upon the following judgments :

(i) In Sebastiani Lakra and Others Vs. National Insurance Company Ltd., and another reported in 2019(17) SCC 465, in which paragraph No.14 held as follows :



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“14. As far as the amounts of pension and gratuity are concerned, these are paid on account of the service rendered by the deceased to his employer. It is now an established principle of service jurisprudence that pension and gratuity are the property of the deceased. They are more in the nature of deferred wages. The deceased employee works throughout his life expecting that on his retirement he will get substantial amount as pension and gratuity. These amounts are also payable on death, whatever be the cause of death. Therefore, applying the same principles, the said amount cannot be deducted.”

ii) In K.S.Muralidhar Vs. R. Subbulakshmi and another reported in 2024(2) TN MAC 663 (SC), in which paragraph No.14 held as follows :

“14.In respect of 'pain and suffering' in cases where disability suffered is at 100%, we may notice a few decisions of this Court:-

14.1 In R.D Hattangadi v. Pest Control (India) (P) Ltd.18. It was observed:

"17. The claim under Sl. No. 16 for 'pain and suffering' and for loss of amenities of life under Sl. No. 17, are claims for non-pecuniary loss. The appellant has claimed lump sum amount of Rs.3,00,000 each under the two heads. The High Court has allowed Rs.1,00,000 against



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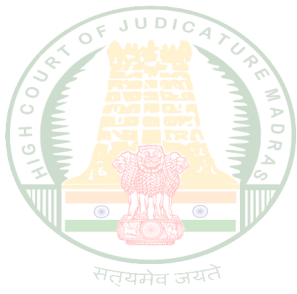
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the claims of Rs.6,00,000. When compensation is to be awarded for 'pain and suffering' and loss of amenity of life, the special circumstances of the claimant have to be taken into account including his age, the unusual deprivation he has suffered, the effect thereof on his future life.

The amount of compensation for non-pecuniary loss is not easy to determine but the award must reflect that different circumstances have been taken into consideration. According to us, as the appellant was an advocate having good practice in different courts and as because of the accident he has been crippled and can move only on wheelchair, the High Court should have allowed an amount of Rs.1,50,000 in respect of claim for 'pain and suffering' and Rs.1,50,000 in respect of loss of amenities of life. We direct payment of Rs.3,00,000 (Rupees three lakhs only) against the claim of Rs.6,00,000 under the heads "pain and suffering" and "Loss of amenities of life".

(Emphasis Supplied)

14.2 This Judgment was recently referred to by this Court in Sidram v. United India Insurance Company Ltd.¹⁹ reference was also made to Karnataka SRTC v. Mahadeva Shetty²⁰ (irrespective of the percentage of disability



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incurred, the observations are instructive), wherein it was observed:

"18. A person not only suffers injuries on account of accident but also suffers in mind and body on account of the accident through out his life and a feeling is developed that his no more a normal man and cannot enjoy the amenities of life as another normal person can. While fixing compensation for pain and suffering as also for loss of amenities, features like his age, marital status and unusual deprivation he has undertaken in his life have to be reckoned."

14.3 In Kajal v. Jagdish Chand²¹ considering the facts of the case, i.e., 100% disability, child being bedridden for life, her mental age being that of a nine-month-old for life - a vegetative existence, held that "even after taking a conservative view of the matter an amount payable for the 'pain and suffering' of this child should be at least Rs.15,00,000/-."

14.4 In Ayush v. Reliance General Insurance²² relying on Kajal (supra) the amount awarded in 'pain and suffering' was enhanced to Rs.10,00,000. The child who had suffered the accident was five years old and the Court noted in paragraph 2 that:



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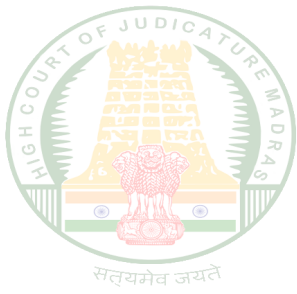
"As per the discharge certificate, the appellant is not able to move both his legs and had complete sensory loss in the legs, urinary incontinence, bowel constipation and bed sores. The appellant was aged about 5 years as on the date of the accident, hence has lost his childhood and is dependent on others for his routine work."

9. Heard the learned counsel on either side and perused the material available on records.

10. In this case, the point for consideration is whether the quantum of compensation awarded by the trial court is just and proper or liable to be set aside.

11. The petitioner has been examined as PW1. Ex.P1 the first information report. Ex.P2 discharge summary issued by Kaveri Hospital Trichy shows that the petitioner was admitted on 13.06.2018 at 12.18 a.m. He was diagnosed with the following injuries.

1. Chest injury Hemopneumothrax lung contusion
2. Left side ICD done.
3. Right foot crush injury.



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4. Multiple facial fracture.
5. Shaft of Fibula fracture– left
6. Multiple rib fracture – left.

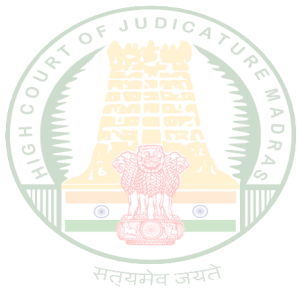
Surgery notes as follows:

1. Wound debridement and wound wash done on 14.06.2018.
2. Open reduction and plate fixation to fibula - Left, below knee amputation done on 15.06.2018.
3. Arch bar+ ORIF + wound debridement – left leg done on 19.06.18
4. Medical and lateral flap local coverage+ SSG done on 21.06.18

After treatment, he was discharged with a request from patient's relatives request to continue care in Command Hospital, Bangalore. Ex.P3 is the lab consolidated report for the period from 13.6.2018 to 27.6.2018. Ex.P4 is the hospital discharge summary issued by the Command Hospital, Bangalore.

Diagnosis that he was admitted on 14.09.2018

- A. Motor or non-motor vehicle accident.
- B. Acquired absence of limb , acquired absence of leg



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at or below knee

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C. Fracture of lower leg, including ankle, fracture of fibula

D. Fracture of skull and facial bones, fracture of skull and facial bones, parked and specified.

The patient was discharged on 23.10.2018.

12.Ex.P5 are the medical bills. Ex.P6 Vidal Health Insurance in the name of Smt.Chandralekha, spouse of Thiru.Dhanasekara Pandiyan, which shows that a sum of Rs.4,00,000/- authorised to Kaveri Medical Care Centre, Trichy. Ex.P7 is the certificate issued by Kaveri Hospital that a sum of Rs.13,03,074/- has been paid by Smt.Chandralekha, spouse of the claimant. Ex.P8 is the artificial leg supplied by Ottobock, Trichirappali to the claimant. Ex.P9 is the enquiry report as to the circumstances under which the petitioner sustained injury on 12.6.2018, the Station Commander, Tiruchirappalli stated that the petitioner met with road accident on 12.06.2018, while returning to his unit on completion of his leave. Ex.P10 is the recommendation of the Station Commander, Tiruchirappalli. Ex.P11 is the information received under Right to Information Act. Ex.P12



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discloses the particulars of person who have been placed in low medical category. Ex.P13 discharge order dated 28.02.2019 shows that the petitioner was discharged from service due to non-availability of sheltered APPT. Ex.P14 Last Pay Certificate of the petitioner during August 2019 is Rs.66,331/-. Ex.P15 is the photo and CD of the petitioner. Ex.P16 to Ex.P.18 are Aadhaar card, PAN card and driving license of the petitioner. Ex.C1 is the disability certificate issued by Medical Board, Trichirappalli and issued disability at 80%.

13. Ex.P11 is the information received by the petitioner under Right to Information Act 2005, from the Madras Regiment on 19.08.2019, in which column 20 is the Medical Board proceedings. It shows that the petitioner was assessed with 60% of disability, whereas the certificate issued by the Medical Board shows that the percentage of disabilities of the petitioner was assessed to be 80%.

14. In this case, PW2 one Albert Antony Raj deposed about the salary of service particulars of the petitioner. From the evidence it reveals that last pay drawn by the petitioner is a sum of Rs.68,906/- and the total period of service of the petitioner is 32 years. He joined in



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service on 20.02.2000. If he had not met with an accident, he would have been in service till 2032.

15. We carefully scrutinized the entire records which reveals that the petitioner who met with an accident had been serving as Havildar in Indian Army. Due to the injury sustained by him, he was discharged from the Army.

16. Rule 185(a) of the Pension Regulations for the Army, 1961 deals with the disability pension. Rule 185 of the Pension Regulations for the Army, 1961 reads as follows :-

“185(a) If the disability is certified on the basis of an invalidating or resurvey, a medical board to be incapable of improvement, disability pension shall be granted for a period of 10 years in the first instance. During this period, the pensioner will have a right to claim reassessment of his pension on the basis of aggravation, if any. Where the disability pension is modified, as a result of reassessment, the pension shall again be granted for a period of 10 years from the date of revised award provided the disability is still recorded as incapable of improvement. Each successive assessment at higher or lower rates will be



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for 10 years period during which the pensioner will be given an opportunity to have pension reassessed on the basis of further aggravation.

b. When the percentage of development has remained unmodified for a period of 10 years, the pension shall be brought before Re-survey Medical Board at the end of 10 years and in the event of the disability still being regarded by the pension sanctioning authority as incapable of improvement, pension shall be sanctioned for life. Thereafter, no revision of pension will be admissible.

c. In case where the invalidating disability is loss of limb(s), total loss of sight, loss of one, amputation, etc., and where the question of improvement/worsening of its physical condition do not arise, the award shall be sanctioned for life in the first instance itself.

17. The petitioner has not revealed or produced any document in connection with disability pension before the trial Court. Therefore, the above matter was listed under the caption “for clarification” on 13.12.2024, and we had requested the learned counsel for the respondent to produce the pension received by the claimant.



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18. A copy of the pension details issued by the Principal

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Controller of the Defence Accounts (Pensions) Allahabad was produced by the learned counsel for the respondent counsel in which we found that the injured receives service pension/service element a sanctioned sum of Rs.25,700/- per month. Apart from that he was also sanctioned War injury/disability element per month Rs.15,420/- from 01.9.2019 for life. Apart from that, he received other pensionary benefits.

19. When a question arises whether such pensionary benefit or regular pension would be deducted from the compensation or not, the above aspect was settled in the judgment reported in ***Helen C. Rebello & Others Vs. Maharashtra State Road Transport Corporation reported in 1999 (1) ACJ 10***, the Hon'ble Supreme Court held that "Provident fund, pension, insurance and similarly any cash; bank balance, shares, fixed deposit, etc., are all a 'pecuniary advantage' receivable by the heirs on the amount of one' death but all these have no correlation with the amount receivable under a statute occasioned only on account of accidental death. Such an amount will not come within the periphery of the Motor Vehicles Act to be termed as 'pecuniary advantage' liable for deduction."

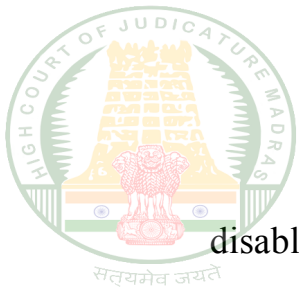


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20. It is pertinent to note that apart from regular pension, the petitioner was provided with War injury/disability pension, which is a sum of Rs.15,420/- till his lifetime towards his disablement. The disability pension was sanctioned to the petitioner taking into consideration the fact that he was discharged from service due to his disablement and in order to compensate the same, it was sanctioned. Therefore, the contention of the petitioner that he was totally deprived of his income during lifetime would not be acceptable.

21. Due to the accident, the petitioner's right leg was amputated, and he spent a huge amount for his medical treatment towards the surgery. Further, the Medical Board assessed the disability at 80% whereas, the employer of the petitioner assessed the disability at 60%. Now the question arises that whether the assessment of the Medical Board is to be taken into consideration or the assessment of the employer has to be applied.

22. In this regard, we rely upon the judgment reported in ***Rajkumar v. Ajay Kumar reported in 2011 (1) SCC 343***, The Hon'ble Supreme Court sets out certain guidelines to assess compensation for the

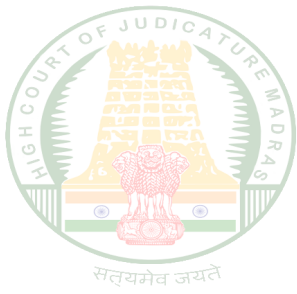


disablement of the injured by the Motor Accidental Claims Tribunal, in

which paragraph Nos.10 and 13 are extracted as follows:

"10. Ascertainment of the effect of the permanent disability on the actual earning capacity involves three steps. The Tribunal has to first ascertain what activities the claimant could carry on in spite of the permanent disability and what he could not do as a result of the permanent ability (this is also relevant for awarding compensation under the head of loss of amenities of life). The second step is to ascertain his avocation, profession and nature of work before the accident, as also his age. The third step is to find out whether (i) the claimant is totally disabled from earning any kind of livelihood, or

(ii) whether in spite of the permanent disability, the claimant could still effectively carry on the activities and functions, which he was earlier carrying on, or (iii) whether he was prevented or restricted from discharging his previous activities and functions, but could carry on some other or lesser scale of activities and functions so that he continues to earn or can continue to earn his livelihood. For example, if the left hand of a claimant is amputated, the permanent physical or functional disablement may be assessed around 60%. If the claimant was a driver or a carpenter, the actual loss of earning capacity may virtually be hundred percent, if he is neither able to drive or do carpentry. On the other hand, if the claimant was a clerk in government service, the loss of his left hand may not result in loss of employment and he may still be continued



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as a clerk as he could perform his clerical functions; and in that event the loss of earning capacity will not be 100% as in the case of a driver or carpenter, nor 60% which is the actual physical disability, but far less. In fact, there may not be any need to award any compensation under the head of 'loss of future earnings', if the claimant continues in government service, though he may be awarded compensation under the head of loss of amenities as a consequence of losing his hand. Sometimes the injured claimant may be continued in service, but may not found suitable for discharging the duties attached to the post or job which he was earlier holding, on account of his disability, and may therefore be shifted to some other suitable but lesser post with lesser emoluments, in which case there should be a limited award under the head of loss of future earning capacity, taking note of the reduced earning capacity. It may be noted that when compensation is awarded by treating the loss of future earning capacity as 100% (or even anything more than 50%), the need to award compensation separately under the head of loss of amenities or loss of expectation of life may disappear and as a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life, as otherwise there may be a duplication in the award of compensation. Be that as it may.

13. We may now summarise the principles discussed above:



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(i) *All injuries (or permanent disabilities arising from injuries), do not result in loss of earning capacity.*

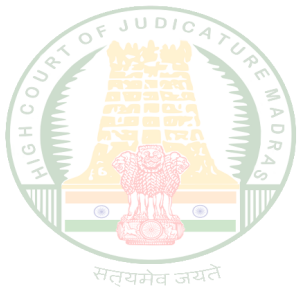
(ii) *The percentage of permanent disability with reference to the whole body of a person, cannot be assumed to be the percentage of loss of earning capacity. To put it differently, the percentage of loss of earning capacity is not the same as the percentage of permanent disability (except in a few cases, 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."*

9.A Division Bench of this Court in United India Insurance Co. Ltd., vs. Veluchamy and another reported in I (2006) ACC 416, sets out the parameters as to when the multiplier method can be adopted in the case of injury. In Paragraph 11 of the decision reads thus:-

"11. The following principles emerge from the above discussion:



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(a) In all cases of injury or permanent disablement 'multiplier method' cannot be mechanically applied to ascertain the future loss of income or earning power.

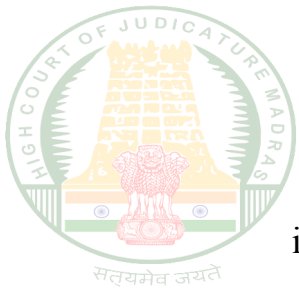
(b) It depends upon various factors such as nature and extent of disablement, avocation of the injured and whether it would affect his employment or earning power, etc. and if so, to what extent?

(c) (1) If there is categorical evidence that because of injury and consequential disability, the injured lost his employment or avocation completely and has to be idle for the rest of his life, in that event loss of income or earnings may be ascertained by applying the 'multiplier method' as provided under the Second Schedule to Motor Vehicles Act, 1988. (2) Even so there is no need to adopt the same period as that of fatal cases as provided under the Schedule. If there is no amputation and if there is evidence to show that there is likelihood of reduction or improvement in future years, lesser period may be adopted for ascertainment of loss of income.

(d) Mainly it depends upon the avocation or profession or nature of employment being attended by the injured at the time of accident."

23. Based on the guidelines in the above case we are satisfied that due to the accident, the respondent/petitioner's

- i) right leg below the knee amputated,
- ii) Chest injury Hemopneumothrax lung contusion,



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- iii) Multiple facial fracture,
- iv) Left Shaft of Fibula fracture,
- v) Multiple rib fracture on left side.

This Court, taking into consideration the medical records and the fact that due to the injury sustained by the petitioner, he was discharged from the military service, and the over-all injury sustained by the petitioner, is fixing the permanent disability suffered by the petitioner at 80% in light of the judgement of the Hon'ble Apex Court in ***Rajkumar v. Ajay Kumar reported in 2011 (1) SCC 343***, case.

24.As far as the fixation of assessment of permanent disability, we noted that he was sanctioned with a sum of Rs.15,420/- towards disability pension till his lifetime apart from his regular pension. We are not going to take into account for assessing permanent disability the regular pension amount that was received by the petitioner for fixing permanent disability. However, we consider that the disability pension alone was fixed as compensation for the disability only for fixation of compensation as the above pension was sanctioned only for his disability. We have decided to deduct the war pension from the salary. Therefore, we minus the disablement pension from the salary Rs.68096 – 15420 = Rs.52,676/- rounded to Rs.52,680/-.



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25. In this case, the injured was employed in Army and was

left with a service tenure of another 12 years of service. The appellant argued that split multiplier method has to be applied. The argument advanced by the petitioner cannot be accepted as even after retirement he would get employment in Government sector under the Ex-servicemen quota and would get emoluments.

26. As per *Sarala Verma* judgment reported in **2011(4) SCC 689**, if the injured is below the age of 40, 50% additional income of actual salary is to be added for future prospectus. Hence, 50% income taken by the trial Court for future prospectus is proper. Due to the above disability he was not able to continue his employment and therefore, discharged from his employment. We deem it proper to apply multiplier method for adopting compensation. As far as other heading is concerned, we hold that the trial judge properly calculated the other heading and hence, we are not inclined to alter the same. Hence, we modify the amount of compensation for permanent disability as follows :

We fix the salary at Rs.52,680/- and add 50% future prospectus as follows :



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Rs.52,680 x 50/100 = Rs.26,340/-. (Rs.79,020/- = (Rs.52,680 + Rs.

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26,340/-)). The age of the injured at the time of accident is 39 and hence, for calculating loss of income, multiplier 15 was applied by the trial Court. As per schedule which is proper and we confirm the same. For percentage of permanent disability, we confirm 80% as fixed by the trial Court. Therefore, the permanent disability income derived would be Rs. 79,020 x 12 x 15 x 80% = Rs.1,13,78,880/-. We confirm the other expenditure. Hence the compensation arrived at by us is as follows:-

Permanent disability	Rs.1,13,78,880/-
Pain and sufferings	Rs.1,50,000/-
For lack of convenience and discomfort	Rs.1,00,000/-
Medical expenses	Rs.15,70,324/-
Futre Medical expenses	Rs.50,000/-
Extra nourishment	Rs.25,000/-
Nursing	Rs.30,500/-
Travel expenses	Rs.20,000/-
Damages to clothing and articles	Rs.5,000/-
Total	Rs.1,33,29,704/-

27.In the result, the Civil Miscellaneous Appeal is partly allowed. The award passed by the trial Court is modified and the Appellant is directed to pay a sum of Rs.1,33,29,704/- along with interest



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at the rate of 7.5% per annum from the date of petition till the date of deposit of the amount, less the amount if already deposited to the credit of MCOP.No.79/2020 on the file of the III Additional Sub Court for Motor Accident Claims Tribunal, Trichy, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondent/claimant is permitted to withdraw the same, less the amount already withdrawn, if any, together with proportionate interest and costs, by filing appropriate petition before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) & (R.P., J.)
09.01.2025

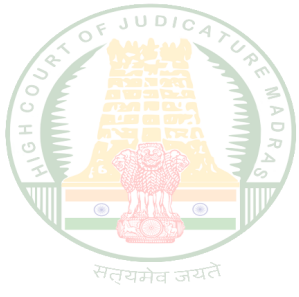
Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM

To

1. The III Additional Sub Court
Motor Accident Claims Tribunal, Trichy,

Copy to

1. The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court, Madurai.



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C.M.A(MD)No.450 of 2023

G.R.SWAMINATHAN, J.
AND
R.POORNIMA, J.

RM

Judgment in
C.M.A.(MD)No.450 of 2023

09.01.2025