BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 08.06.2026

PRONOUNCED ON:24.07.2026

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)No.574 of 2019

The Oriental Insurance Company Ltd.,
Through its Branch Manager,
Sharatha Shopping Complex,
39-40, Workshop Road,
Simmakkal, Madurai. : Appellant/2nd Respondent

Vs.

1.John Augustin Raj : Respondent No.1 / Petitioner

2.P.Arunkumar : Respondent No.2/Respondent No.1

3.A.P.M.Kalai : Respondent No.3/Respondent No.3

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988 against the Judgment and decree passed in M.C.O.P.No.842 of 2016, dated 27.02.2018, on the file of the Motor Accident Claims Tribunal cum Special Sub Judge, Madurai.

For Appellant : Mr.E.Chandrasekaran

For Respondents : Mr.C.Godwin
for R.1
: R.2 and R.3 – paper publication.

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award made in M.C.O.P.No.842 of 2016, dated 27.02.2018, on the file of the Motor Accident Claims Tribunal / Special Subordinate Court to deal with MCOP cases, Madurai.

2. The appellant/Insurer who was mulcted with liability to pay compensaton of Rs.20,93,000/- with interest and costs to the first respondent/claimant for the disability sustained by him, consequent to an accident occurred on 09.08.2006, challenged the quantum of compensation awarded by the Tribunal.

3. For the sake of convenience and brevity, the parties will be referred as per their status and ranking in the trial Court.

4. The learned Counsel for the appellant/Insurer would contend that the disability assessed at 60% for the claimant is only a partial permanent disability and it is not a permanent total disablement requiring application of multiplier theory, that the disability sustained did not lead to any loss of earning capacity and the invocation of multiplier method to the present case cannot be sustained and that the Tribunal ought to have adopted percentage method.

5. Before proceeding further, it is necessary to refer the judgment of the Hon'ble Supreme Court in ***Raj Kumar Vs. Ajay Kumar and another*** reported in ***2011 (1) SCC 343,***

> *"9. Therefore, the Tribunal has to first decide whether there is any permanent disability and if so the extent of such permanent disability. This means that the tribunal should consider and decide with reference to the evidence: (i) whether the disablement is permanent or temporary; (ii) if the disablement is permanent, whether it is permanent total disablement or permanent partial disablement, (iii) if the disablement percentage is expressed with reference to any specific limb, then the effect of such disablement of the limb on the functioning of*

the entire body, that is the permanent disability suffered by the person. If the Tribunal concludes that there is no permanent disability then there is no question of proceeding further and determining the loss of future earning capacity. But if the Tribunal concludes that there is permanent disability then it will proceed to ascertain its extent. After the Tribunal ascertains the actual extent of permanent disability of the claimant based on the medical evidence, it has to determine whether such permanent disability has affected or will affect his earning capacity.

....

13. We may now summarise the principles discussed above :

(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."

6. Considering the above, it is very much clear that in all cases of injury or permanent disablement, the ascertainment of future loss of income or loss of earning capacity is not automatic, that the Tribunal is duty bound to take into consideration the various factors such as nature and extent of disablement, avocation of the injured and the impact of the disability on the avocation and that the multiplier method cannot be applied mechanically.

7. In the case on hand, the claimant has produced the medical records under Exs.P.11 to P.29, P.34 to P.39. It is evident that the claimant was given inpatient treatment at Vadamalaiyan Hospital, Madurai from 09.08.2006 to 22.08.2006 and again from 12.10.2006 to

23.10.2006 for bone injuries on his right leg and hip. It is further evident that the claimant had taken inpatient treatment at MIOT Hospital, Madurai from 07.02.2007 to 14.02.2007 and again from 01.03.2007 to 14.03.2007. It is further evident from the medical records that the claimant had undergone hip replacement surgery. The claimant has produced the disability certificate under Ex.P.37 wherein it was certified that he sustained disability at 75%. The Tribunal, taking note of the fact that the accident was occurred in 2006 and the claim petition was being taken for enquiry in 2018, directed the claimant to appear before the Lok Adalat and in pursuance of the same, the claimant appeared before the Lok Adalat and Dr.Nagaraja Boopathy examined the claimant and after taking X-ray under Ex.P.43 issued a certificate under Ex.P.44 wherein it was certified that the claimant had implants on his right thigh and he sustained permanent disability at 60% and that he was unable to stand and move without any support. The Tribunal after seeing the claimant and on perusing the medical records, has stated that the claimant has shown that his left leg was not functioning. Considering the entire evidence including the medical evidence available on record and taking note of the disability sustained, the Tribunal invoked the multiplier method and fixed the disability at 60% and as such, the same cannot be found fault with.

8. The learned Counsel for the appellant/Insurer would then contend that the claimant has not proved his income through acceptable evidence, that the claimant stated that he was employed in Saudi Arabia and was doing the job of Diesel Mechanic, but he failed to produce his employment details to the Tribunal, that the petitioner had met with an accident on 09.08.2006, when he came to India on a holiday vacation, that the claimant has not produced any document to show that he was drawing any specific amount as salary from Saudi Arabian employer and that the Tribunal without any basis, fixed the monthly income of the claimant as Rs.10,000/- and the same is liable to be interfered with.

9. The claimant has produced the service certificate, wherein it is evident that the claimant was employed in Saudi Arabia from 13.05.1999 to 09.05.2002. Though the claimant has alleged that he was working as a Diesel Mechanic in the Ministry of Defence, Kingdom of Saudi Arabia and was drawing a salary of SR2000/-i.e., Rs.24,000/- per month, he has

not produced any iota of evidence to substantiate the same. The Tribunal, on considering the evidence available on record, has observed that the claimant had remitted amounts to his father's bank account and that during the period from 05.04.2005 till 03.05.2006, a sum of Rs.1,85,000/- was credited to his father's account. The Tribunal has further observed that the claimant has not produced any material to show his employment was permanent or contractual. But taking note of the entire evidence available on record, the Tribunal fixed the monthly income of the claimant at Rs.10,000/- and the same appears to be reasonable and cannot be said to be excessive.

10. The Tribunal relying on the judgment of the Hon'ble Supreme Court in ***National Insurance Company Ltd., Vs. Pranay Sethi and others*** reported in ***2017(2) TNMAC 609,*** has rightly added 40% of the income towards personal and living expenses of the deceased and after such deduction, the income comes to Rs.14,000/- per month. Since the claimant was aged at 37 years at the time of accident, the Tribunal as per the dictum rendered by the Hon'ble Supreme Court in ***Sarla Verma and others Vs. Delhi Transport Corporation and another*** reported in

2009(2) TNMAC 1 (SC), has rightly applied the multiplier of "15" and assessed the disability compensation at Rs.15,12,000/- and the same cannot be faulted. The Tribunal has awarded Rs.70,000/- for pain and sufferings, Rs.10,000/- for extra nourishment, Rs.20,000/- towards attendant charges, Rs.1,000/- towards loss of dress and articles, Rs.2,000/- for transport expenses and Rs.4,78,000/- towards medical expenses. As rightly contended by the learned Counsel for the claimants, the amounts awarded under the above heads are not on higher side. Hence, the total compensation awarded by the Tribunal at Rs.20,93,000/- appears just and reasonable and the same cannot be said to be excessive. The appellant has not canvassed any other reason or ground to impugn the award. Consequently, this Court concludes that the Civil Miscellaneous Appeal is devoid of merits and the same is liable to be dismissed..

11. In the result, the Civil Miscellaneous Appeal is dismissed. The appellant – Insurance Company is directed to deposit the entire award amount along with accrued interest and costs, to the credit of above said M.C.O.P.No.842 of 2016, on the file of the Motor Accident Claims

Tribunal / Special Subordinate Court to deal with MCOP cases, Madurai, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this Judgment and on such deposit, the claimant is entitled to withdraw his amount as apportioned by the Tribunal along with proportionate interest and costs on due application before the Tribunal. The parties are directed to bear their own costs.

24.07.2026

NCC : Yes : No
Index : Yes : No
Internet : Yes : No

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To

1. The Motor Accident Claims Tribunal /
Special Subordinate Court to deal with MCOP cases,
Madurai.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

K.MURALI SHANKAR,J.

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PRE-DELIVERY JUDGMENT MADE IN

C.M.A(MD)No.574 of 2019

24.07.2026