

C.M.A.Nos.182 and 3333 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on: 08.01.2026

Pronounced on: 06.03.2026

CORAM

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.Nos.182 and 3333 and of 2025 and
C.M.P. No.27456 of 2025

M. Sridhar

...Appellant in C.M.A.No.182/2025

Respondent C.M.A.No.3333/2025

vs.

The Managing Director,

Tamil Nadu State Transport Corporation

(Villupuram) Limited,

No.3/137, Salamedu, Vazhuthareddy (Post)

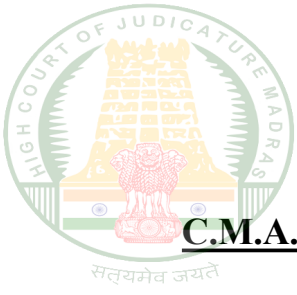
Villupuram TK 605 602

...Appellant in C.M.A.No.3333/2025 /

Respondent in C.M.A.No.182/2025

Common Prayer: These Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicle Act 1988, against the Award dated 15.04.2024 passed in M.C.O.P. No.2054 of 2017 on the file of the Special Sub Judge-II , Motor Accident Claims Tribunal, Court of small Causes, Chennai.

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C.M.A. No.182 of 2025

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For Appellant : Ms.P.T.Saleem Fathima

For Respondent : Mr.S.S.Santhosakumar

C.M.A. No.3333 of 2025

For Appellant : Mr.S.S.Santhosakumar

For Respondent : Ms.P.T.Saleem Fathima

COMMON JUDGMENT

C.M.A. 182/2025 has been filed by the Appellant / Claimant seeking enhancement of compensation awarded by the Tribunal in MCOP No.2054/2017, dated 15.04.2024, on the file of the Special Sub Judge No.II, Motor Accident Claims Tribunal, Court of Small Causes, Chennai.

2. C.M.A. 3333 of 2025 has been filed by the Appellant / Tamil Nadu State Transport Corporation against the said Award.

3. Both the appeals arise out of the same accident and the same Award and hence, disposed of by this common judgment.

4. For the sake of convenience, the parties are referred to as per their



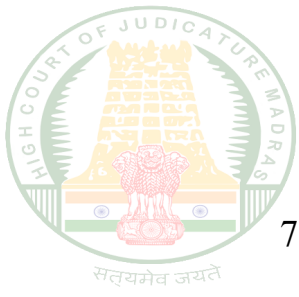
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ranking in the claim petition.

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5. The claimant has filed MCOP No.2054/2017 on the file of the Special Sub Judge No. II, Court of Small Causes, Chennai, claiming a sum of Rs.15,00,000/- as compensation for the injuries sustained by him in the accident that took place on 14.01.2017.

6. According to the claimant, on 14.01.2017 at about 5.30 a.m., he was riding his motor cycle bearing Registration No. TN-11- K-1165 along the Maduravoyal Tambaram Bypass Road at near Mudichur Sai Bhavan Garden, at the time, the driver of the respondent TNSTC bus bearing Registration No.TN-32-N-2837 proceeding in front of the claimant's motor cycle, suddenly applied brake, due to which the claimant's vehicle dashed against the respondent bus, as a result of which, he sustained grievous injuries. The accident occurred only due to the negligent act of the driver of the bus. Hence, the respondent Corporation is liable to pay the compensation to the claimant.

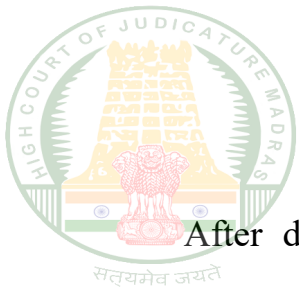


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7. The claim is resisted by the Respondent Corporation stating that, the rider of the motorcycle came in a rash and negligent manner, hit behind the bus and caused the accident. Hence, the Respondent Corporation is not liable to pay compensation.

8. The Tribunal, after hearing both sides and considering the evidence available on record, concluded that the accident occurred due to the rash and negligent driving of the respondent's driver to an extent of 80% and the claimant to an extent of 20% and accordingly, awarded compensation as hereunder:

Loss of earning capacity	Rs.16,83,500/-
Pain and sufferings	Rs.50,000/-
Loss of Income	Rs.78,500/-
Medical Expenses	Rs.2,000/-
Attendant charges	Rs.6,000/-
Transportation	Rs.10,000/-
Loss of Amenities	Rs.10,000/-
Extra nourishment	Rs.10,000/-
Total	Rs.18,50,000



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After deducting 20% towards contributory negligence on the part of the claimant, directed the Transport Corporation to pay a sum of Rs.14,80,000/- to the claimant together with interest at the rate of 7.5% per annum from the date of claim petition till the date of realisation.

9. Questioning the contributory negligence fixed by the tribunal and the quantum of compensation awarded by the tribunal, the claimant has filed C.M.A.No.No.182/2025 and the Respondent / Corporation has filed C.M.A. No. 3333/2025.

10. Ms.P.T.Saleem Fathima, the learned counsel for the claimant in CMA 182/2025 argued that, while the Tribunal has correctly held that the accident was due to the negligence of the respondent bus driver, but erred in fixing 20% contributory negligence on the part of the claimant. The Tribunal also erred in taking only 30% disability while the Medical Board assessed 41% disability. As per Discharge Summary marked as Ex.P4, the claimant has sustained fracture in Left Zygoma, Fracture Left Maxilla, Left ulnar styloid, IDK left knee and Traumatic epididymitis right and was treated as inpatient from 14.01.2017 to 18.01.2017, 09.03.2017 to 14.03.2017 and 16.03.2017, i.e.



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for a period of 12 days and two surgeries were conducted. The tribunal has

taken only net salary while fixing the monthly income of the claimant instead of taking the gross income for calculating loss of earning power. The compensation awarded by the Tribunal towards pain and suffering and loss of amenities and other heads are very meagre. In the light of the above submission, the learned counsel for the claimant prayed to dismiss the Civil Miscellaneous Appeal preferred by the Respondent Corporation and allow the Civil Miscellaneous Appeal preferred by the claimant by enhancing the compensation.

11. *Per contra*, Mr.S.S. Santhosa Kumar, the learned counsel for the appellant in C.M.A 3333 of 2025 / Transport Corporation argued that the Award passed by the tribunal is contrary to law, not supported by the weight of evidence, and against the probabilities of the case. It is contended that the tribunal erred in holding the Respondent Corporation has contributed to the accident to an extent of 80% despite the fact that the accident was caused solely due to the rash and negligent riding of the motorcycle by the claimant. The claimant negligently dashed on the back side of the Respondent bus, without noticing that the bus was stationed, leading to the claimant's fall and



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injuries. Thus, the Award is liable to be set aside and negligence has to be

fixed upon the claimant. It was further argued that the tribunal wrongly opted for the multiplier method for loss of earning capacity without any evidence of permanent disability or impact on the claimant's income. The tribunal erred in awarding a sum of Rs.78,500/- towards loss of income to the claimant. Therefore, the learned counsel prayed to allow C.M.A. 3333/2025 and dismiss CMA 182/2025 filed by the claimant.

12. Heard the submissions made by the counsel for the respective parties and perused the materials on record.

13. In this case, the First Information Report (Ex.P1) is registered against the respondent bus driver. The Respondent Corporation failed to establish that, the driver of the bus was not at fault. Though the respondent would contend that, the alleged accident occurred due to the negligence of the claimant, in support of their contention, they have not established that the claimant hit behind the stationed bus. It is the specific case of the claimant that the driver of the offending bus suddenly applied brake, due to which, the alleged accident occurred. At the same time, as rightly pointed out by the



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learned Tribunal, if the claimant had been cautious, he could have averted the accident. Hence, the Tribunal, considering the evidence available on record, rightly concluded that the accident occurred due to the rash and negligent act of the respondent bus driver to an extent of 80% and the claimant to an extent of 20%, warrants any interference by this Court.

14. It is not in dispute that the claimant had sustained fracture in Left Zygoma, Fracture Left Maxilla, Left ulnar styloid, IDK left knee and Traumatic epididymitis right and took treatment at Parvathi Hospital, Chennai, in 3 spells. The Medical Records including Ex.C1 Disability Certificate confirm these injuries and the treatments undergone by the claimant. The Medical Board assessed the claimant's disability at 41%. However, the Tribunal fixed the functional disability at 30%. Now it has to be seen whether the injuries suffered by the claimant have a direct impact on his earning capacity. According to the claimant, at the time of the accident, he was working as a Team Leader in Omega Health Care Pvt. Ltd., Taramani and was earning Rs.28,000/- per month. The sum and substance of the contention of the learned claimant is that, owing to the fracture sustained by the claimant, he is unable to carry out his duties as a Team Leader and the percentage of

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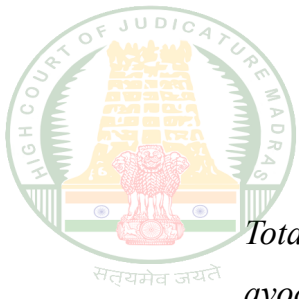


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disability has been erroneously assessed at 30% while the doctor has assessed the permanent disability of 41%.

15. Before proceeding to consider the appeals on merits, it would be useful to refer to the judgment of the Hon'ble Supreme Court in **Rajkumar vs. Ajay Kumar reported in (2011) 1 SCC 343**, wherein the general principles relating to compensation in injury cases; assessment of loss of future earnings on account of permanent disability; assessment of compensation in injury cases, have been discussed at length. The relevant paragraphs of the said judgment are extracted as hereunder:

“6. Disability refers to any restriction or lack of ability to perform an activity in the manner considered normal for a human-being. Permanent disability refers to the residuary incapacity or loss of use of some part of the body, found existing at the end of the period of treatment and recuperation, after achieving the maximum bodily improvement or recovery which is likely to remain for the remainder life of the injured. Temporary disability refers to the incapacity or loss of use of some part of the body on account of the injury, which will cease to exist at the end of the period of treatment and recuperation. Permanent disability can be either partial or total. Partial permanent disability refers to a person's inability to perform all the duties and bodily functions that he could perform before the accident, though he is able to perform some of them and is still able to engage in some gainful activity.



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Total permanent disability refers to a person's inability to perform any avocation or employment related activities as a result of the accident. The permanent disabilities that may arise from motor accidents injuries, are of a much wider range when compared to the physical disabilities which are enumerated in the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 ('Disabilities Act' for short). But if any of the disabilities enumerated in Section 2(i) of the Disabilities Act are the result of injuries sustained in a motor accident, they can be permanent disabilities for the purpose of claiming compensation.

7. The percentage of permanent disability is expressed by the Doctors with reference to the whole body, or more often than not, with reference to a particular limb. When a disability certificate states that the injured has suffered permanent disability to an extent of 45% of the left lower limb, it is not the same as 45% permanent disability with reference to the whole body. The extent of disability of a limb (or part of the body) expressed in terms of a percentage of the total functions of that limb, obviously cannot be assumed to be the extent of disability of the whole body. If there is 60% permanent disability of the right hand and 80% permanent disability of left leg, it does not mean that the extent of permanent disability with reference to the whole body is 140% (that is 80% plus 60%). If different parts of the body have suffered different percentages of disabilities, the sum total thereof expressed in terms of the permanent disability with reference to the whole body, cannot obviously exceed 100%.

8. Where the claimant suffers a permanent disability as a result of injuries, the assessment of compensation under the head of loss of future



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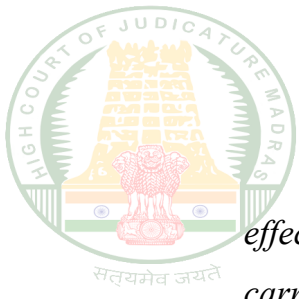
earnings, would depend upon the effect and impact of such permanent disability on his earning capacity. The Tribunal should not mechanically apply the percentage of permanent disability as the percentage of economic loss or loss of earning capacity. In most of the cases, the percentage of economic loss, that is, percentage of loss of earning capacity, arising from a permanent disability will be different from the percentage of permanent disability. Some Tribunals wrongly assume that in all cases, a particular extent (percentage) of permanent disability would result in a corresponding loss of earning capacity, and consequently, if the evidence produced show 45% as the permanent disability, will hold that there is 45% loss of future earning capacity. In most of the cases, equating the extent (percentage) of loss of earning capacity to the extent (percentage) of permanent disability will result in award of either too low or too high a compensation. What requires to be assessed by the Tribunal is the effect of the permanently disability on the earning capacity of the injured; and after assessing the loss of earning capacity in terms of a percentage of the income, it has to be quantified in terms of money, to arrive at the future loss of earnings (by applying the standard multiplier method used to determine loss of dependency). We may however note that in some cases, on appreciation of evidence and assessment, the Tribunal may find that percentage of loss of earning capacity as a result of the permanent disability, is approximately the same as the percentage of permanent disability in which case, of course, the Tribunal will adopt the said percentage for determination of compensation (see for example, the decisions of this Court in Arvind Kumar Mishra v. New India Assurance Co. Ltd. MANU/SC/0777/2010 : 2010(10) SCALE 298 and Yadava Kumar v. D.M., National Insurance Co. Ltd. MANU/SC/0657/2010 : 2010 (8) SCALE 567.



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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.

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 disability (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



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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 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



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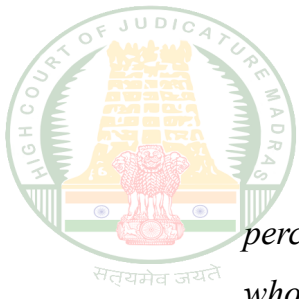


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expectation of life may disappear and as a result, only a token or nominal amount may have to be awarded under the head of loss of amenities or loss of expectation of life, as otherwise there may be a duplication in the award of compensation. Be that as it may.

11. The Tribunal should not be a silent spectator when medical evidence is tendered in regard to the injuries and their effect, in particular the extent of permanent disability. Sections 168 and 169 of the Act make it evident that the Tribunal does not function as a neutral umpire as in a civil suit, but as an active explorer and seeker of truth who is required to 'hold an enquiry into the claim' for determining the 'just compensation'. The Tribunal should therefore take an active role to ascertain the true and correct position so that it can assess the 'just compensation'. While dealing with personal injury cases, the Tribunal should preferably equip itself with a Medical Dictionary and a Handbook for evaluation of permanent physical impairment (for example the Manual for Evaluation of Permanent Physical Impairment for Orthopedic Surgeons, prepared by American Academy of Orthopedic Surgeons or its Indian equivalent or other authorized texts) for understanding the medical evidence and assessing the physical and functional disability. The Tribunal may also keep in view the first schedule to the Workmen's Compensation Act, 1923 which gives some indication about the extent of permanent disability in different types of injuries, in the case of workmen. If a Doctor giving evidence uses technical medical terms, the Tribunal should instruct him to state in addition, in simple non-medical terms, the nature and the effect of the injury. If a doctor gives evidence about the percentage of permanent disability, the Tribunal has to seek clarification as to whether such

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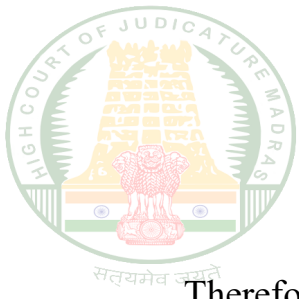
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percentage of disability is the functional disability with reference to the whole body or whether it is only with reference to a limb. If the percentage of permanent disability is stated with reference to a limb, the Tribunal will have to seek the doctor's opinion as to whether it is possible to deduce the corresponding functional permanent disability with reference to the whole body and if so the percentage.

12 . The Tribunal should also act with caution, if it proposed to accept the expert evidence of doctors who did not treat the injured but who give 'ready to use' disability certificates, without proper medical assessment. There are several instances of unscrupulous doctors who without treating the injured, readily giving liberal disability certificates to help the claimants. But where the disability certificates are given by duly constituted Medical Boards, they may be accepted subject to evidence regarding the genuineness of such certificates. The Tribunal may invariably make it a point to require the evidence of the Doctor who treated the injured or who assessed the permanent disability. Mere production of a disability certificate or Discharge Certificate will not be proof of the extent of disability stated therein unless the Doctor who treated the claimant or who medically examined and assessed the extent of disability of claimant, is tendered for cross-examination with reference to the certificate. If the Tribunal is not satisfied with the medical evidence produced by the claimant, it can constitute a Medical Board (from a panel maintained by it in consultation with reputed local Hospitals/Medical Colleges) and refer the claimant to such Medical Board for assessment of the disability.”



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Therefore, all injuries do not result in loss of earning capacity. Percentage of permanent disability with reference to whole body of a person, cannot be assumed to be percentage of loss of earning capacity. To put it differently, percentage of loss of earning capacity is not same as percentage of permanent disability. The Medical Board can assess only the extent of permanent disability. Loss of earning capacity is something that will have to be assessed by Tribunal with reference to evidence in entirety. Same permanent disability may result in different percentages of loss of earning capacity in different person, depending upon nature of profession, occupation or job, age, education and other factors. In the instant case, the Tribunal considering the opinion of the Medical Board that the injuries were surgically stabilized, rightly fixed the functional disability as 30%, warrants any interference by this Court.

16. As far as the quantum of compensation is concerned, it is the case of the claimant that, at the time of accident, the claimant was working as Team Leader in Omega Health Care Pvt. Ltd., Taramani, and earned Rs.28,000/- per month. He had produced the salary slip marked as Ex.P11 in which it is mentioned that the claimant received a sum of Rs.32,517/-, out of which the tribunal has taken the basic salary and house rent allowance alone as salary

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and held that the other allowances for conveyance, special allowance, statutory

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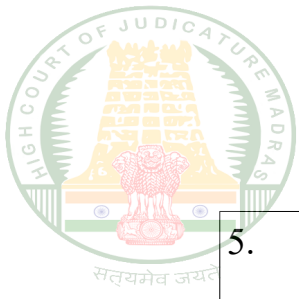
bonus and medical allowance cannot be considered under the head of salary

and fixed the monthly income of the claimant as Rs.19,650/-. In the

circumstances, the tribunal cannot be faulted.

17. However, the compensation awarded by the Tribunal under the heads of pain and sufferings and loss of amenities alone appears to be low. Considering the age, avocation and nature of injuries sustained by the claimant, a sum of Rs.1,00,000/- is awarded towards pain and sufferings and a sum of Rs.20,000/- is awarded towards loss of amenities. The compensation awarded under other heads is confirmed.

S. No.	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed/ enhanced/ granted/ set aside
1.	Loss of earning capacity	16,83,500/-	16,83,500/-	Confirmed
2.	Pain and sufferings	50,000/-	1,00,000/-	Enhanced
3.	Loss of Income	78,500/-	78,500/-	confirmed
4.	Medical expenses	2,000/-	2,000/-	Confirmed



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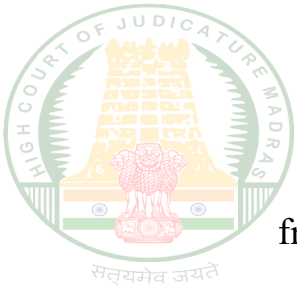
5.	Attender charges	6,000/-	6,000/-	confirmed
6.	Transportation	10,000/-	10,000/-	confirmed
7.	Loss of amenities	10,000/-	20,000/-	Enhanced
8.	Extra nourishment	10,000/-	10,000/-	Confirmed
	Total	18,50,000/-	19,10,000/-	Enhanced by Rs.60,000/-
	After deducting 20% contributory negligence	14,80,000/-	15,28,000/-	Enhanced by Rs.48,000/-

18. In the result,

i.C.M.A.No.182 of 2025 is partly allowed. C.M.A. No.3333 of 2025 is dismissed. No costs. Consequently connected miscellaneous petition is closed.

ii.The quantum of compensation awarded by the Tribunal is enhanced to Rs.15,28,000/- from Rs.14,80,000/-.

iii.The appellant in C.M.A. No.3333 of 2025 /Transport Corporation is directed to deposit a sum of Rs.15,28,000 /- (less the amount already deposited) with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, within a period of four weeks



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from the date of receipt of a copy of this order, to the credit of M.C.O.P.

WEB COPY No.2054 of 2017 on the file of the learned Special Sub Judge-II, Motor Accident Claims Tribunal, Court of small Causes, Chennai.

iv. On such deposit being made, the appellant in C.M.A. No.182 of 2025 / claimant is at liberty to withdraw the same after filing a proper petition for withdrawal.

06.03.2026

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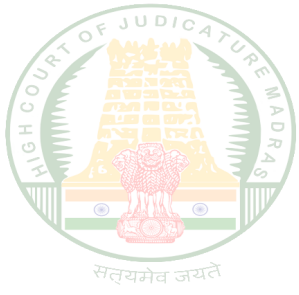
Speaking/Non-speaking order

To

1. The Special Sub Judge-II,
Motor Accident Claims Tribunal,
Court of small Causes, Chennai.

2. The Section Officer,
VR Section,
High Court, Madras.

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C.M.A.Nos.182 and 3333 of 2025

K.GOVINDARAJAN THILAKAVADI, J.

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Pre-delivery common judgment in

C.M.A.Nos.182 and 3333 and of 2025 and
C.M.P. No.27456 of 2025

06.03.2026

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