



C.M.A.(MD).No.537 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

C.M.A.(MD).No.537 of 2023

Anjalai,

... Petitioner

Vs

1. K.Selvam,
K.Selvam,
S/o.Krishnasamy,
No.10, Kumarakkattalai Street,
Mayiladuthurai Taluk,
Nagapattinam District..

2. The Branch Manager,
United India Insurance Co.Limited,
123-A, Taj Towers, No.2, Road,
Mayiladuthurai Taluk,
Nagapattinam District..

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act 1988 against the award and decree dated 14.12.2021 in M.C.O.P.No.105 of 2020 on the file of the Motor Accident Claims Tribunal/(Addition District Court),Pudukottai dated 14-12-2021



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For Appellant : Mr.N.Tamilmani

For Respondents : Mr.J.S.Murali for R2

J U D G M E N T

This civil miscellaneous appeal is filed challenging the award dated 14.12.2021 in MCOP No.105 of 2020 passed by the Motor Accident Claims Tribunal, Additional District Court, Pudukottai.

2.The appeal is filed on the short ground challenging the multiplier adopted.

3. The appellant/claimant filed claim petition seeking compensation of Rs.25 lakhs for the death of her son. He died in a road accident that had occurred on 15.08.2019. The manner of accident and liability to pay the compensation are not disputed. The only question that is canvassed before this Court is with regard to adoption of multiplier on the basis of the age of the appellant/claimant instead of the age of the deceased.



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4.The learned counsel for the appellant submitted that the tribunal had adopted multiplier on the basis of the age of the appellant. On the other hand, the tribunal ought to have considered the age of the deceased instead of the appellant/claimant. The deceased was aged 42 years and the proper multiplier to be adopted is 14. In support of his contention, he relied on the decision of the Hon'ble Supreme Court in *Royal Sundaram Alliance Insurance Company Limited v. Mandala Yadagari Goud and others* reported in (2019) 5 SCC 554.

5.The learned counsel for the respondent insurance company has no serious objections.

6. I have considered the submissions made on either side and perused the materials available on record.

7. It has been categorically held in paragraph No.10 of the said judgment, referred above that it is the age of the deceased and not the age of the parents that would be the factor for the purpose of taking the multiplier to be applied. For better appreciation, Paragraph No.10 is



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extracted hereunder:

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“A reading of the judgment in Sube Singh (supra) shows that where a three Judge Bench has categorically taken the view that it is the age of the deceased and not the age of the parents that would be the factor for the purposes of taking the multiplier to be applied. This judgment undoubtedly relied upon the case of Munna Lal Jain (supra) which is also a three Judge Bench judgment in this behalf. The relevant portion of the judgment has also been extracted. Once again the extracted portion in turn refers to the judgment of a three Judge Bench in Reshma Kumari & Ors. Vs. Madan Mohan & Anr. The relevant portion of Reshma Kumari in turn has referred to Sarla Verma (supra) case and given its imprimatur to the same. The loss of dependency is thus stated to be based on : (i) additions/deductions to be made for arriving at the income; (ii) the deductions to be made towards the personal living expenses of the deceased; and (iii) the multiplier to be applied with reference to the age of the deceased. It is the third aspect which is of significance and Reshma Kumari categorically states that it does not want to revisit the law settled in Sarla Verma case in this behalf.”

8. If we apply the said ratio to the facts of the present case, if the age of the deceased is taken as the basis, the proper multiplier would be 14. When calculated on the basis of the notional income of the deceased, ie., Rs.6,250/-, it comes to $\text{Rs.}6250 \times 12 \times 14 = \text{Rs.}10,50,000/-$. As such the loss of dependency would be at Rs.10,50,000/-. The



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compensation awarded on other heads is retained.

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9. Thus, the compensation awarded is enhanced as follows:

Heads	Awarded by the tribunal (Rs.)	Modified/ reduced	Final Compensation (Rs.)
Loss of dependency	3,75,000/-	(enhanced)	10,50,000
Loss of lov and affection	50,000/-	Confirmed	50,000
Ambulance charges	10,000	Confirmed	10,000
Funeral expenses	15,000	Confirmed	15,000
Total	4,50,000	Enhanced	11,25,000

9. In the result, the civil miscellaneous appeal is allowed in part and the compensation awarded by the Tribunal is hereby enhanced from Rs.4,50,000/- to Rs.11,25,000/-. The 2nd respondent insurance company is directed to deposit the entire award amount of Rs.11,25,000/- (Rupees eleven lakhs twenty five thousand only), if not already deposited, within a period of four weeks from the date of receipt of the judgment with interest at 7.5% per annum from the date of petition till the date of



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deposit to the credit of MCOP No.105 /2020 on the file of the Motor Accident Claims Tribunal/Additional District Court, Pudukottai. On such deposit being made, the appellant/claimant is permitted to withdraw the award amount with interest and costs, less the amount already withdrawn, if any, on due application before the Tribunal. No costs.

08.12.2023

NCC : Yes/No

Internet : Yes/No

RR

To

1.The Motor Accident Claims Tribunal,
Additional District Court, Pudukottai

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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G.CHANDRASEKHARAN,J.

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