



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CMA(MD)No.588 of 2011

and

M.P(MD)No.1 of 2011

Cholamandalam General Insurance
Company Ltd., Through its Branch Manager,
Date House,
2nd Floor, N.S.C. Bose Road,
Chennai 600 001.

.. Appellant / 3rd Respondent

vs.

1) Sri Vallabha Jesu Natesa Durai @
Natesa Durai

2) Pon Prema

3) Minor Padmini

Rep. by father and guardian

1st respondent

.. Respondents /Petitioners

4) Senthil @ Poomiraj

5) Perumal

.. Respondents/Respondents 1&2

Appeal filed under Section 173 of the Motor Vehicles Act,
against the judgment and decree dated 13.12.2010 passed in
MCOP.No.219 of 2009 on the file of the Motor Accident Claims
Tribunal, (Principal Sub Judge), Tenkasi.

For Appellant : Mr.S.Srinivasa Raghavan

For R1 to R3 : Mr.Kathan Rajkumar for Mr.T.R.Jeyapalam

JUDGMENT

It is the case of injury caused on account of the accident
took place on 09.11.2008 around 02.30 p.m near Keelkadayam
Vaarachanthai. The injured filed an application before the Motor
Accident Claims Tribunal, (Principal Sub Judge), Tenkasi, and the
Tribunal considering the facts and circumstances of the case,
awarded Rs.14,90,000/- as total compensation with interest at 7.5%
per annum. The present appeal is filed by the appellant/insurance
company, challenging the quantum of compensation awarded by the
Tribunal as excessive.

St. Johns College and more specifically, a part time course. This apart, it is stated in the claim application that the deceased was performing a part time job, but it was not established before the Tribunal and therefore, this Court is inclined to consider the notional income fixed by the courts in such cases as Rs.6,000/- per month.

3. Such being the consistent practice prevailing regarding fixation of monthly income, the monthly income fixed by the Tribunal at Rs.10,000/- is excessive and requires reconsideration. Accordingly, by fixing the monthly income at Rs.6,000/- notionally, this Court is inclined to modify the award towards loss of income at Rs.6,48,000/- (Rs.6000x12x18x50/100). Considering the number of dependants, Rs.40,000/- awarded towards loss of love and affection is enhanced to Rs.1,00,000/-. Funeral expenses of Rs.10,000/- is enhanced to Rs.25,000/-. For transportation, a sum of Rs.10,000/- is hereby awarded and Rs.50,000/- is hereby granted towards loss of estate. Accordingly, the total compensation is modified and apportioned as hereunder:-

Loss of income	=	Rs.6,48,000/-
Loss of love and affection	=	Rs.1,00,000/-
Funeral expenses	=	Rs. 25,000/-
Transportation	=	Rs. 10,000/-
Loss of estate	=	Rs. 50,000/-

Total	=	Rs.8,33,000/-
(Less) Amount awarded by the Tribunal	=	Rs.14,90,000/-

4. There shall be a reduction of Rs.6,57,000/- on the quantum. It is represented that the entire award amount with interest had already been deposited to the credit of the claim petition. In view of the reduction on the quantum, the appellant is permitted to withdraw Rs.6,57,000/- with interest. The respondents 1 and 2/claimants are permitted to withdraw their shares with interest, through RTGS, by filing necessary applications before the Tribunal. The share of the 3rd respondent/minor claimant shall be deposited in a Nationalised Bank in Fixed Deposit, till she attains majority and on attaining majority, it is for her to approach the Tribunal for disbursement of her share, by making necessary application.

In the result, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, M.P(MD)No.1 of 2011 is closed.

Sd/-

Assistant Registrar (CO)

/True copy/

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar



To

The Principal Sub Judge
Motor Accident Claims Tribunal,
Tenkasi.

+1 CC to Mr.S.SRINIVASA RAGHAVAN, Advocate, SR No.78710

+1 CC to Mr.T.R.JEYAPALAM, Advocate, SR No.78343

CMA(MD) No.588 of 2011
01.12.2016

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