



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 22.08.2017  
CORAM

**THE HONOURABLE MRS. JUSTICE J. NISHA BANU**

C.M.A(MD) No.124 of 2015

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1. Amalorpava Regina Mary  
2. Anthony Sahayaselvi ... Appellants /Claimants

Vs.

1. Srinivasan  
2. The Branch Manager,  
United India Insurance Co., Ltd.,  
Pradeep Tower,  
Chinniah Street,  
Pattukkottai,  
Thanjavur District. ... Respondents/Respondents  
(R.1 set exparte before the Tribunal.  
Hence, notice may be given up  
against R-1)

**PRAYER:-** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Order and Decree made in M.C.O.P.No.364 of 2009, dated 24.02.2011, on the file of the Motor Accident Claims Tribunal, (Subordinate Judge), Pattukkottai.

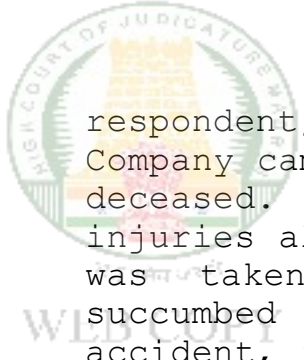
For Appellants : Mr.S.Deenadhayalan  
For Respondents : Mr.N.Sivakumar  
for R.2  
: R.1-Exparte  
before the tribunal

### J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants/claimants against the Judgment and Decree made in M.C.O.P.No.364 of 2009, dated 24.02.2011, on the file of the Motor Accident Claims Tribunal, (Subordinate Judge), Pattukkottai, seeking enhancement of compensation.

2. The brief facts of the case are as follows:

It is a case of fatal accident took place on 15.04.2009 at about 03.00 p.m., in Mathukoor-Mannarkudi road. While the deceased viz., ~~Trichayadaj~~ was riding his bicycle near Kurunji bus stop, a lorry bearing registration No.TN-51-3336 owned by the first



respondent, which was insured with the second respondent Insurance Company came in a rash and negligent manner and dashed against the deceased. As a result of which, the deceased sustained grievous injuries all over the body including head injury. Immediately, he was taken to Government Hospital, Pattukottai, however he succumbed to the injuries on the same day. At the time of accident, the deceased was aged about 40 years and he was earning a sum of Rs.10,000/- per month by working as a mason. Hence, the claimants, who are the legal heirs of the deceased viz., the mother and sister filed a claim petition in M.C.O.P.No.364 of 2009, on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Pattukkottai, claiming a sum of Rs.15,00,000/- as compensation.

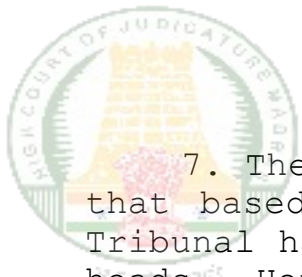
3. Before the Tribunal, on the side of the claimants, two witnesses viz., P.Ws.1 and 2 were examined and 9 documents viz., Exs.P.1 to P.9 were marked and on the side of the respondents, neither any witness was examined and nor any document was marked.

4.The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel appearing on either side and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the offending vehicle and directed the Insurance Company to pay a sum of Rs.1,50,000/-, as compensation under the following heads and dismissed the claim as against the second claimant, who is the sister of the deceased.

|                                    |                 |
|------------------------------------|-----------------|
| for loss of income                 | = Rs.1,20,000/- |
| for transport and funeral expenses | = Rs. 15,000/-  |
| for loss of love and affection     | = Rs. 15,000/-  |
|                                    | -----           |
| Total                              | = Rs.1,50,000/- |
|                                    | -----           |

5. Against which, the appellants/claimants have filed this present appeal seeking enhancement of compensation.

6. The learned Counsel for the appellants would submit that while arriving loss of income, the Tribunal has wrongly adopted the multiplier by taking into account the age of the mother, instead of taking into account the age of the deceased. The Tribunal also, without taking into consideration the monthly income of the deceased at Rs.10,000/- by working as a mason, had taken a meagre sum of Rs.3000/- per month and hence, the amount awarded under the head of loss of income should be modified. He submitted that the amount awarded by the Tribunal under the various heads also very meagre. Hence, he prays this Court for enhancing the compensation.



7. The learned counsel for the second respondent would submit that based on the available oral and documentary evidences, the Tribunal has arrived at just and proper compensation under various heads. Hence, he prays for dismissal of this appeal.

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8. Heard the learned counsel appearing on both sides and perused the materials available on record.

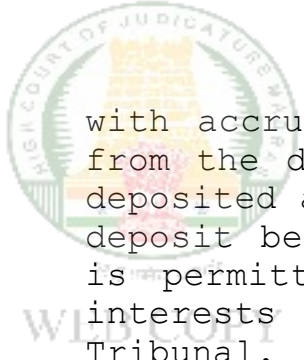
9. As contended by the learned Counsel for the appellants/claimants, since the Tribunal has taken the meagre amount for arriving loss of income, this Court is inclined to modify the same. This Court is compelled to take a sum of Rs.6,000/- (Rupees Six Thousand only) as the monthly income of the deceased, as the Honourable Supreme Court in **Syed Sadiq v. Divisional Manager, United India Insurance Co. Ltd.** reported in **2014 (1) TNMAC 459 (SC)**, determined the monthly income at Rs.6,500/- (Rupees Six Thousand and Five Hundred only) per month for a vegetable vendor, who sustained injury in the year 2008 and after adding 50% of the monthly income as future prospectus (Rs.6,000/- + Rs.3,000/-) and after deducting 50% towards his personal expenses, since he is a bachelor (Rs.9,000/- - Rs.4,500/- = Rs.4,500/-) and adopting multiplier "15" as per the decision of the Honourable Supreme Court in **Sarla Verma v. Delhi Transport Corporation** reported in **2009 (2) TN MAC 1 (SC)**, the loss of income would be arrived at as follows:

Rs.4500/-x12x15 = Rs.8,10,000/-

The amount awarded by the Tribunal under other heads stand unaltered, since it is just and reasonable. Therefore, this Court enhanced the compensation awarded by the Tribunal from Rs.1,50,000/- to Rs.8,40,000/- under the following heads:

|                                    |                 |
|------------------------------------|-----------------|
| for loss of income                 | = Rs.8,10,000/- |
| for transport and funeral expenses | = Rs. 15,000/-  |
| for loss of love and affection     | = Rs. 15,000/-  |
|                                    | -----           |
| Total                              | = Rs.8,40,000/- |
|                                    | -----           |

10. In the result, this Civil Miscellaneous Appeal is allowed by enhancing the compensation awarded by the Tribunal in M.C.O.P.No.364 of 2009, dated 24.02.2011, on the file of the Motor Accident Claims Tribunal, (Subordinate Judge), Pattukkottai from Rs.1,50,000/- to Rs.8,40,000/- (Rupees Eight Lakhs and Forty Thousand only) with 7.5% interest per annum. The second respondent Insurance Company is directed to deposit the entire award amount



with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and less the amount already deposited if any and on such deposit being made, the appellant/claimant/mother of the deceased is permitted to withdraw the entire award amount with accrued interests and costs without filing any formal petition before the Tribunal. Since the Tribunal has dismissed the claim as against the sister of the deceased, the mother of the deceased shall give any amount as her own wish to her daughter. The claimant 1<sup>st</sup> respondent directed to pay the court fee for the enhanced amount. No costs.

Sd/-  
Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The Subordinate Judge,  
The Motor Accident Claims Tribunal,  
Pattukkottai.

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

+ 1 CC TO MR.S.Deenadhayalan, ADVOCATE IN SR No.73947

+ 1 CC TO MR.N.Sivakumar, ADVOCATE IN SR No.74364

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MK/SKN RSK/SAR-1/12.10.2017/4P/5C

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