



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.09.2017

CORAM

THE HONOURABLE MRS. JUSTICE J. NISHA BANU

C.M.A (MD) Nos. 383 to 385 of 2017

WEB COPY

1. C. Ramayee

2. M. Chinna Kalai

... Appellants/Petitioners

in C.M.A (MD) No. 383 of 2017

1. M. Perumayee

2. Chinnamuthu

3. Minor. Arun Kumar

4. Minor. Lakshmi

(Minor appellants 3 and 4

were represented by their

mother and guardian

Perumayee, the 1st

appellant herein)

... Appellants/Petitioners

in C.M.A (MD) No. 384 of 2017

1. A. Muthulakshmi

2. A. Nijitha

3. Minor. A. Iswarya

4. Minor. A. Velmurugan

5. P. Muthammal

6. K. Palani (Died)

(Minor appellants 3 and 4

are represented by their

mother and guardian

A. Muthulakshmi, the 1st

appellant herein)

... Appellants/Petitioners

in C.M.A (MD) No. 385 of 2017

Vs.

1. R. Sathishbabu

2. The Branch Manager,

IFFCO Tokio General Insurance Company Ltd.,

KBS Arcade, No. 2, 2nd Floor,

No. 4/1044, Kovai Main Road,

Karur.

3. K. Velusamy

4. The Manager,

Royal Sundaram Alliance Insurance Company Ltd.,

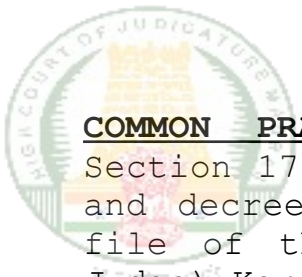
8/H1, Mangalam Building,

4, Pongalur, Salem - 636 009.

<https://hcservices.e-courts.in/hcs/Guide.htm>

... Respondents / Respondents

in all CMAs



COMMON PRAYER:- Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.Nos.190,191 and 192 of 2012 on the file of the Motor Accident Claims Tribunal (Principal District Judge) Karur, dated 25.07.2014.

WEB COPY

For Appellants: Mr.T.Selvakumaran in all cases
 For R1 and R3 : No appearance
 For R2 : Mrs.K.R.Shivashankari
 For R4 : Mr.M.E.Elango
 in all CMAs

COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed by the appellants/claimants against the judgment and decree made in M.C.O.P.Nos.190,191 and 192 of 2012 passed by the Motor Accident Claims Tribunal (Principal District Judge) Karur, dated 25.07.2014.

2. It is a case of fatal accident, which took place on 10.04.2012 at 07.00 a.m., on Karur-Erode road, near Varunthiyapalayam Pirivu Road, near Ealakundu at Kodumudi.

3.It is the case of the claimants before the Tribunal that when Mariyappan alias Chinna Marimuthu alias Marimuthu was riding a Hero Honda Splendor Motorcycle bearing Registration No.TN-59 AF-4043 along with Selvan and Arumugam as pillion riders from east to west the first respondent had driven the TATA 407 van in a rash and negligent manner from west to east and dashed against the two wheeler. As a result of the accident , all the three persons travelling in the two wheeler died on the spot.

4.The claimants filed applications in M.C.O.P. Nos.190, 191 and 192 of 2012 on the file of the Motor Accident Claims Tribunal (Principal District Judge) Karur, seeking compensation.

5.Before the Tribunal, the appellants/claimants examined four witnesses as P.W.1 to P.W.4 and marked twelve documents as Ex.P.1 to Ex.P.12. On the side of the respondents no witness was examined and two documents as Exs.R1 and 2 were marked.

6.The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred due to the rash and negligent driving of the driver of the lorry and rider of the motorcyclist and fixed the liability as 60:40 and therefore directed the first and second respondents to pay the compensation to the claimants.

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

7. Against which, the appellants/claimants filed this present

violation
fixed the

9. The submitted

10. The
newspaper, the

(i) As

has awarded
the appellation

(ii) A

(iii) As far as CMA(MD).No.385 of 2016 is concerned, the Tribunal has fixed monthly income of the deceased as Rs.5,000/-, considering the nature of work, this Court fixes the income of the deceased at Rs.6,000/- and as per the judgment of the Honourable Supreme Court in the case of *Sarla Verma Vs. Delhi Transport Corporation* reported in 2009(2) TNMAC 1 (SC), if 50% of the income is added towards future prospects it would be Rs.9,000/- and since there are 4 dependants, 1/4th of the income i.e Rs.2,250/- has to be deducted towards personal expenses, accordingly the income of the deceased would be Rs.6,750/-. Considering the age, multiplier 16 is adopted and therefore the loss of income would be Rs.12,96,000/-. The Tribunal has awarded Rs.20,000/- towards loss of consortium and Rs.50,000/- is awarded towards the same. The Tribunal has awarded Rs.60,000/- towards loss of love and affection and considering the age of the claimants, the same is enhanced to Rs.2,50,000/- and the Tribunal has awarded Rs.10,000/- towards funeral expense and the same is enhanced to Rs.20,000/-.

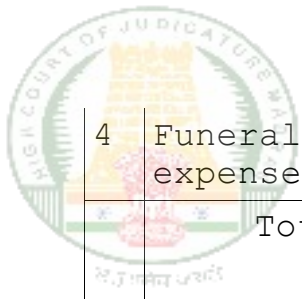
11. In view of the settled position of law, this Court modifies the award of the Tribunal by enhancing the compensation, as under:-

CMA(MD).No.383 of 2017 (MCOP.No.190 of 2012)

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1	For death of Selvan	3,64,000	5,00,000	Enhanced
2	Loss of love and affection	--	1,00,000	Awarded
	Total	3,64,500	6,00,000	By enhancing Rs.2,35,500

CMA(MD).No.384 of 2017 (MCOP.No.191 of 2012)

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1	Loss of income	6,75,000	12,15,000	Enhanced
2	Loss of love and affection	40,000	2,00,000	Enhanced
3	Loss of	20,000	50,000	Enhanced



4	Funeral expense	10,000	20,000	Enhanced
	Total	7,45,000	14,85,000	By enhancing Rs.7,40,000

CMA(MD).No.385 of 2017 (MCOP.No.192 of 2012)

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1	Loss of income	7,20,00	12,96,000	Enhanced
2	Loss of love and affection	60,000	2,50,000	Enhanced
3	Loss of consortium	20,000	50,000	Enhanced
4	Funeral expense	10,000	20,000	Enhanced
	Total	8,10,000	16,16,000	By enhancing Rs.8,06,000

12. In the result,

(i) This CMA(MD)No.383 of 2015 is allowed and CMA(MD).Nos.384 and 385 of 2015 is partly allowed, enhancing the award of the Tribunal from Rs.3,64,500/- (Rupees Three lakhs sixty four thousand and five hundred only), Rs.7,45,000/- (Rupees Seven lakhs and forty five thousand only) , Rs.8,10,000/- (Rupees Eight lakhs and ten thousand only) to a sum of Rs.6,00,000/- (Rupees Six lakhs only), Rs.14,85,000/- (Rupees Fourteen lakhs and eighty five thousand) and Rs.16,16,000/- (Rupees Sixteen lakhs and sixteen thousand Only) respectively. Since the claimants are entitled to 60% of the award, the same would be Rs.3,60,000/-, Rs.8,91,000/- and Rs.9,69,600/- respectively along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;

(ii) The second respondent/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/claimants are permitted to withdraw their respective shares of award amount, with accrued interests and costs, without filing any formal application before the Tribunal. The appellants/claimants are directed to pay necessary additional Court fees, if any. No Costs. The Tribunal is directed to deposit the shares of the minor children in a Nationalized Bank until they attain majority. The 1st claimants are



permitted to withdraw the interest amount once in six months.
Sd/-
Assistant Registrar (CS-II)

/True copy/

WEB COPY

Sub Assistant Registrar

To,

1. The Principal District Judge,
The Motor Accident Claims Tribunal,
Karur,

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

+3cc to Mr. T. SELVAKUMARAN, Advocate, SR. 80616, 80617, 80618

+1cc to Mr. S. SRINIVASA RAGHAVAN, Advocate, SR. 80035

+1cc to Mr. M. E. ILANGO, Advocate, SR. 80209

C.M.A (MD) Nos. 383 to 385 of 2017
20.09.2017

DSK

KK/KP/SAR 4/10.11.2017/ 6P- 8C/