



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.12.2017

CORAM :
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
C.M.A. (MD) No.21 of 2014

WEB COPY

- 1.Ramasamy
- 2.Subbammal
- 3.Muthuselvi
- 4.Balakani

... Appellant

Vs.

1. Ramesh
2. ICICI Lombard General Insurance Company Ltd.,
Branch Manager,
Office Zenith House,
Keshavrao Khade Marg,
Mahalaxmi, Mumbai-400034.
3. Kalyani
4. Martin Selvanaygam
5. Bajaj Allianz General Insurance Co.Ltd.,
No.43, 20, Rithen don Road,
Vepery, Chennai-07.

... Respondents

(The respondents 3 and 4 are exparte
in the Trial Court, hence dispensed with)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal and enhance the award amount in M.C.O.P.No.923 of 2009 on the file of the Motor Claims Tribunal, (Principal District Judge), Tirunelveli, dated 30.11.2012.

For Appellant	: Mr.T.Selvakumaran
For Respondents 1 & 5	: No appearance
For Respondent No.2	: M/s.K.R.Shivashankari for Mr.S.Srinivasa Raghavan
For Respondents 3 & 4	: Dispensed with

JUDGMENT

The claimants seek enhancement of the compensation awarded to them. One Pachamal aged 24 years died on 28.05.2009.

2. According to the claimants, his monthly income was Rs.5,500/-. The same deserves to be accepted as such even without any income proof. But in this case, the Tribunal took his monthly income as Rs.3,500/-. This is not correct.

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

3. Hence, the quantum of compensation awarded by the Tribunal

will have to be necessarily re-worked.

Future prospects will have to be added at 40% ($\text{Rs.}5,500 \times 40/100 = \text{Rs.}2,200 + \text{Rs.}5,500 = \text{Rs.}7,700/-$) and multiplier 18 is to be adopted. Since he was a bachelor, 50% deduction will have to be made. Therefore, the pecuniary loss to the family will be $\text{Rs.}8,31,600/- (\text{Rs.}3,850 \times 18 \times 12)$. Towards loss of love and affection a sum of $\text{Rs.}1,00,000/-$ can be awarded. A sum of $\text{Rs.}15,000/-$ can be awarded towards funeral expenses. This can be rounded off to $\text{Rs.}9,50,000/-$. The Tribunal has held that the deceased had also contributed by his negligence and therefore the compensation will have to be halved. Thus the claimants 1 and 2 would be entitled to a sum of $\text{Rs.}4,75,000/-$. The said amount shall be payable to both the parents in equal shares.

4. The award dated 12.12.2017 made in M.C.O.P.No.923 of 2009 on the file of the Motor Claims Tribunal, (Principal District Judge), Tirunelveli, is modified accordingly.

5. The respondents 1 and 2 are directed to deposit the award amount of $\text{Rs.}4,75,000/-$ jointly or severally with interest at 7.5% per annum and costs, from the date of petition till date of realization, within a period of twelve weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimants 1 and 2 are entitled to withdraw the amount as apportioned by this Court, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.

6. This Civil Miscellaneous Appeal is allowed accordingly. No costs.

Sd/-

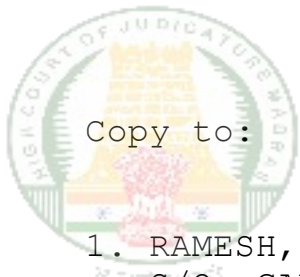
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District Judge ,
The Motor Claims Tribunal,
Tirunelveli.
2. The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)



Copy to:

1. RAMESH,
S/O. GANESHAN,
NO.119, CHITRA DHABOVANAM,
NETHAJI STREET, SRIRANGAM, TRICHY-15.

2. BAJAJ ALLIANZ GENERAL
INSURANCE CO. LTD.,
NO.43, 20, RITHEN DON ROAD,
VEPERY, CHENNAI-07.

+1cc to Mr.G.Maruthiah, Advocate SR.No.92848

+1cc to Mr.S.Srinivasa Raghavan, Advocate SR.No.92619

Tsg

MK/SB/SAR 4/11.07.2018/3P/8C

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