

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 11.10.2017****CORAM :****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****WEB COPY****C.M.A.(MD)No.184 of 2015**

Devarajan

... Appellant/Claimant

Vs.

1. P.Selvi

2. The Divisional Manager,
United India Insurance Co. Ltd.,
Seethalakshmi Complex,
Thirunagar, Madurai.
(R1 given up)

... Respondents/Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, to set aside the judgment and decree passed in M.C.O.P.No.1398 of 2011 dated 17.04.2013 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate Court) Madurai insofar as the quantum is concerned.

For Appellant

: Mrs.P.Jessi Jeeva Priya

For Respondents

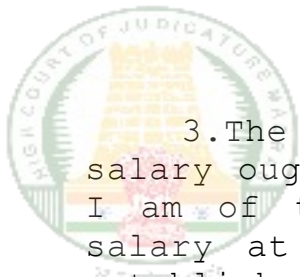
: Mr.B.Rajesh Saravanan for R2

R1- given up

JUDGMENT

The claimant seeks enhancement of compensation awarded in M.C.O.P.No.1398 of 2011 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate Court) Madurai.

2.The case of the claimant is that his son Veerakumar died in an accident that took place on 31.05.2011 on account of the rash and negligent driving of a dipper lorry, which was insured with the second respondent herein. The deceased was working as a driver. Crime No.11 of 2011 was registered on the file of Sedapatti police station against the driver of the offending vehicle. The Tribunal rightly fixed the negligence on the driver of the vehicle insured by the second respondent herein. The second respondent herein was also made liable to satisfy the award. Even though the claimant filed Ex.P5 salary certificate, the same was not properly established. Therefore the Tribunal fixed the monthly income of the deceased at Rs.7,000/-. Since he was a bachelor, 50% of the deduction was made and the loss of monthly income was quantified at Rs.3,500/-. Considering the claimant's age, multiplier of 11 was adopted. The Tribunal finally awarded a sum of Rs.4,72,000/- with interest.



3.The learned counsel for the appellant contended that the salary ought to have been fixed at Rs.12,000/- in terms of Ex.P5. I am of the view that the Tribunal rightly fixed the monthly salary at Rs.7,000/- since the claimant did not satisfactorily establish that the deceased was actually earning sum of Rs.12,000/-. Since the aged father of the deceased was the sole claimant, future prospects of the deceased were not taken into account. Therefore, the compensation is worked out as under:

Loss of income	3,500 x 12 x 11	= Rs.4,62,000
Loss of love and affection		= Rs. 50,000
Funeral Expenses		= Rs. 25,000
Total		= Rs.5,37,000

Accordingly, the compensation awarded by the Tribunal is enhanced to Rs.5,37,000/-.

4.In the result, the civil miscellaneous appeal is allowed and the award dated 17.04.2013 passed in M.C.O.P.No.1398 of 2011 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate Court) Madurai is modified as indicated above. The second respondent is directed to deposit the entire compensation to the credit of M.C.O.P.No.1398 of 2011 on the file of Motor Accident Claims Tribunal (Chief Judicial Magistrate Court) Madurai, within a period of twelve weeks from the date of receipt of a copy of this order with 7.5% interest from the date of claim petition till the date of realization. On such deposit, the appellant is permitted to withdraw the entire compensation with accrued interest, by filing proper application before the Tribunal. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The Chief Judicial Magistrate ,
Motor Accident Claims Tribunal,
Madurai.

+1cc to Mr. B.Rajesh Saravanan, Advocate SR.No.82715
+1cc to Mrs.P.Jessi Jeeva Priya, Advocate Sr.No.82369

ARUL

VB/SV/MMS/SAR4/23/01/2018/2P/4C

C.M.A. (MD) No.184 of 2015

11.10.2017