



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.443 of 2015

1.A.Baby Christy,
D/o.Late Arthur,
3/281, 2nd Street,
Surveyor Colony,
K.Pudur, Madurai-625 007.

2.N.Jones,
S/o.A.Baby Christy,
3/281, 2nd Street, Surveyor Colony,
K.Pudur, Madurai-625 007.

... Appellants

Vs.

1.The Principal,
J.J.College of Arts & Science,
Sivapuram, Pudukottai,
Pudukottai District-622 001.

2.The United India Insurance Company Ltd,
Having its Branch Office,
Opp. Head Office, Sivakasi-627 123.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 14.12.2010 passed in M.C.O.P.No.1905 of 2006 on the file of the Hon'ble Motor Accidents Claims Tribunal (1st Additional District Judge) Madurai.

For Appellants : Mr.T.Lajapathiroy

For Respondents : Mr.D.Ramesh Kumar for R.1
: Mr.A.S.Mathiyalagan for R.2

JUDGMENT

This appeal has been filed seeking enhancement of the compensation awarded by the Tribunal.

2.The claimants are the mother and the younger brother of the deceased. The deceased was riding his motorbike when the vehicle belonging to the first respondent caused the accident leading to his

death on the spot. The vehicle of the first respondent insured with the second respondent. Therefore, the Tribunal rightly fixed the negligence on the driver of the first respondent and further held that the 2nd respondent was liable to satisfy the award. The said findings have become final.

3. Now the question is how much compensation should be awarded. The deceased was studying in M.Sc., (Information Technology) course in J.J. College of Arts and Science, Pudukottai. He would have got appointment in I.T. profession shortly, if the accident had not occurred. He was aged only 21 years at the time of accident. The Tribunal fixed the notional income at Rs.4,500/- and held that the loss to the family would be Rs.3,000/- per month.

4. The learned counsel for the appellant contended that this Court in a decision reported in 2014 (2) TN MAC 6 (SC)-V. Mekala Vs. M. Malathi & anr. fixed the notional income at Rs.10,000/- and also included future prospects at Rs.15,000/-.

5. Considering the course under gone by the deceased and the institution in which he was studying, I am of the view that the notional income in this case can be taken as Rs.10,000/-. He was a bachelor. He was un-married. One can assume he would have given a sum of Rs.5,000/- for his mother per month. Therefore the pecuniary loss can be quantified at Rs.5,000X12X15=Rs.9,00,000/-. The compensation payable can be reworked as under:-

Sl.No.	Heads	Amount in Rs.
1.	Pecuniary Loss	Rs.9,00,000/-
2.	Loss of Love and Affection	Rs. 70,000/-
3.	Funeral Expenses	Rs. 25,000/-
4.	Transportation Charges	Rs. 5,000/-
	Total	Rs.10,00,000/-

6. The first appellant/mother is entitled to Rs.9,00,000/-, while the second appellant/younger brother is entitled to Rs.1,00,000/-. The second respondent is directed to pay the said amount to the appellants with interest at the rate of 7.5% per annum from the date of application in M.C.O.P.No.1905 of 2006 till the date of realisation and costs within twelve weeks from the date of receipt of a copy of this order, less the amount already deposited, if any to the credit of M.C.O.P.No.1905 of 2006 on the file of the Motor Accidents Claims Tribunal (1st Additional District Judge) Madurai. On such deposit, the claimants are permitted to withdraw the same as apportioned by this Court by filing proper application before the Tribunal. The award passed by the Tribunal is



accordingly modified. This Civil Miscellaneous Appeal is partly allowed. No costs.

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Sd/-
Assistant Registrar (CSII)

Sub-Assistant Registrar

To

1. The 1st Additional District Judge,
The Motor Accident Claims Tribunal,
Madurai.

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

+One cc to M/s.A.S.Mathialagan, Advocate, SR.No.84268

+One cc to M/s.T.Lajapathi Roy, Advocate, SR.No.84183

+One cc to M/s.T.Lajapathi Roy, Advocate, SR.No.84071

tsg/dss
RL/6C/3P/MR/KKR/SAR2/24/11/2017

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