

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 22.09.2017****CORAM**

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU**C.M.A(MD)No.1070 of 2011**

B.Subbulakshimi

... Appellant /1st Petitioner**Vs.**

1. B.Santhanakrishnan

... 1st Respondent/1st Respondent

2. The Divisional Manager,
The Oriental Insurance Company
Ltd, North Veli Street,
Madurai-1.

...2st Respondent/2st Respondent

3. L.S.N.Ramakrishnammal

...3rd Respondent/2nd Petitioner

4. L.S.Natarajan

...4rd Respondent/3rd Petitioner

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.852 of 2004 dated 18.08.2010 on the file of the Motor Accidents Claims Tribunal-cum-IV Additional Sub-Court, Madurai.

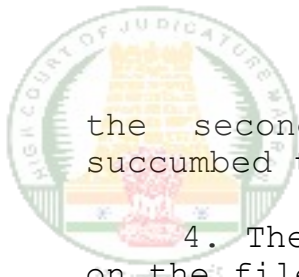
For Appellant	: Mr.K.Mahalingam
For R-1	: No appearance
For R-2	: Mr.K.Bhaskaran
For R-3 & R-4	: Mr.R.Govindha Raj

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/claimant against the award of the Motor Accidents Claims Tribunal-cum-IV Additional Sub-Court, Madurai, made in M.C.O.P.No.852 of 2004, dated 18.08.2010.

2. It is a case of fatal accident, which took place on 16.09.2003 at 9.00 a.m., at Srirengapuram to Theni road, near Aramanaipudur Co-op. Bank, 3 kms east of Palanichettipatti Police Station in Theni District.

3. It is the case of the claimants before the Tribunal that on the date of accident, when the deceased by name Jeyachandran was a pillion rider in the motorcycle bearing registration No.TN 60 B 4730, due to the rash and negligent driving of the driver of the vehicle, belonging to the first respondent and insured with



the second respondent, met with an accident and thereafter, succumbed to the injuries.

4. The claimants filed an application in M.C.O.P.No.852 of 2004 on the file of the Motor Accidents Claims Tribunal-cum-IV Additional Sub-Court, Madurai, seeking compensation.

5. Before the Tribunal, the claimants examined four witnesses as P.Ws.1 to 4 and marked ten documents as Ex.P.1 to Ex.P.10. The second respondent/Insurance Company did not let in any oral or documentary evidence before the Tribunal.

6. The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments advanced on either side and also appreciating the evidences on record, held that the accident occurred only due to the rash and negligent driving of the driver of the first respondent and directed the second respondent/Insurance Company to pay a sum of Rs.5,09,620/-, as compensation.

7. Against which, the appellant/claimant filed this present appeal seeking enhancement of compensation.

8. The learned counsel for the appellant/claimant would submit that at the time of the accident, the deceased was aged about 39 years and was working in a Private Concern for a monthly income of Rs.5,000/-. But, without considering the same, the Tribunal fixed the monthly income of the deceased as Rs.3000/- and calculated the loss of income by applying multiplier '16' and further, the compensation awarded under the other heads are also on the lower side and therefore, the appellant has filed this appeal seeking enhancement of compensation.

9. Considering the above submission, this Court fixes a sum of Rs.4,500/- as monthly income of the deceased and therefore, the compensation for loss of income would be Rs.5,76,000/- (Rs.4,500 X 12 X 16 X 2/3).

10. Further, the sum of Rs.10,000/- (Rupees Ten Thousand only) awarded by the Tribunal towards loss of consortium, is on the lower side and therefore, the same is enhanced to a sum of Rs.50,000/- (Rupees Fifty Thousand only).

11. Further, the sum of Rs.10,000/- (Rupees Ten Thousand only) awarded by the Tribunal towards loss of love and affection for claimants 2 and 3, is on the lower side and therefore, the same is enhanced to a sum of Rs.50,000/- (Rupees Fifty Thousand only).

12. Further, the sum of Rs.4,000/- (Rupees Four Thousand only) awarded by the Tribunal towards funeral expenses, is on the lower side and therefore, the same is enhanced to a sum of Rs.20,000/- (Rupees Twenty Thousand only) and the other heads are confirmed.

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

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For Transport to Hospital	4,000	4,000	confirmed
2.	For medical expenses	97,620	97620	confirmed
3.	For loss of consortium (for 1 st claimant/wife)	10,000	50,000	Enhanced
4.	For loss of love and affection (for claimants 2 and 3)	10,000	50,000	Enhanced
5.	For Funeral Expenses	4,000	20,000	Enhanced
6.	Longevity of life and expectation of future benefits	3,84,000	5,76,000	Enhanced
	Total	Rs.5,09,620	Rs.7,97,600	By enhancing a sum of Rs.2,87,980/-

14. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, enhancing the award of the Tribunal from **Rs.5,09,620/- (Rupees Five Lakhs Nine Thousand Six Hundred and Twenty only)** to a sum of **Rs.7,97,600/- (Rupees Seven Lakhs Ninety Seven Thousand and Six Hundred only)** along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs; The appellant is directed to pay the additional Court Fees within a period of **two weeks** from the date of receipt of a copy of this judgment;

(ii) The second respondent/Insurance Company is directed to deposit the entire award amount of **Rs.7,97,600/- (Rupees Seven Lakhs Ninety Seven Thousand and Six Hundred only)** with accrued interests and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, with accrued interests and costs, without filing any



formal application before the Tribunal. No Costs.

Sd/-
Assistant Registrar (CS-II)

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Sub Assistant Registrar

To,

1. The IV Additional Subordinate Judge,
Motor Accidents Claims Tribunal
Madurai.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.K.Bhaskaran, Advocate Sr.No.80647

PM

JS/SKN/RSK/SAR4/21.11.2017/4P/4C

C.M.A(MD)No.1070 of 2011
22.09.2017