



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE: 15.11.2019

CORAM

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A. (MD) .No.918 of 2017

1.B.Pushpa
2.Minor B.Sowmiya
3.Minor B.Srinithi
4.R.Kamatchi
(Minors-Appellants 2 and 3 rep by
their mother and natural guardian
1st appellant)

... Appellants/Petitioners

-Vs-

1.R.Nirmala Devi

2.The Branch Manager,
The Oriental Insurance Company Limited,
Branch Office No.134/1,
Thiruchengode Road, Pallipalayam,
Namakkal District.
(1st respondent set ex-parte before the
Tribunal. Hence, R1 may be dispensed with)

... Respondents/Respondents

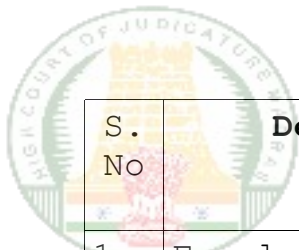
PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 24.07.2015 in M.C.O.P.No.233 of 2013 on the file of the Motor Accident Claims Tribunal, Sub Court, Kulithalai, Karur District, seeking enhancement of compensation of Rs.20,00,000/-

For Appellants	:	Mr.N.Sudhagar Nagaraj
For R2	:	Mr.C.Jawahar Ravindran

J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the claimants challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Sub Court, Kulithalai, Karur District in M.C.O.P.No.233 of 2013, dated 24.07.2015.

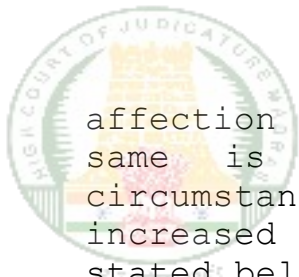
2. The Tribunal has awarded a sum of Rs.24,86,000/- as compensation to the claimants in the manner stated below:



S. No	Description	Amount awarded by the Tribunal (Rs)
1.	For loss of dependency	23,76,000
2.	For loss of consortium	25,000
3.	For loss of love and affection of the appellants 2 and 3	50,000 (Rs.25,000/- each)
4.	For love and affection of the 4 th appellant	10,000
5.	For funeral expenses	25,000
	Total	24,86,000

3. When the matter is taken up for hearing today, the learned counsel appearing for the appellants/claimants as well as the learned counsel appearing for the second respondent/Insurance Company submitted that in the present case, the loss of dependency was calculated without adding the future prospects. At the time of accident, the age of the deceased was 40 years old and Ex.A7 / driving licence and the postmortem certificate also confirmed the age of the deceased was 40 years. For the age group of '40', as held by the Hon'ble Apex Court in the case of **National Insurance Company Vs. Pranay Sethi and others** reported in **2017(2) TN MAC 609 (SC)**, 25% is required to be added. Therefore, the loss of dependency would be Rs.29,70,000/- (Rs.23,76,000/- + Rs.5,94,000/-) and the loss of dependency stands revised and increased from Rs.23,76,000/- to Rs.29,70,000/-.

4. The Tribunal has awarded a sum of Rs.25,000/- towards consortium and a sum of Rs.25,000/- towards funeral expenses. However, no amount was awarded towards loss of estate. Both the learned counsel appearing for the appellants/claimants as well as the learned counsel appearing for the second respondent/Insurance Company fairly submitted that as per the decision of the Hon'ble Supreme Court, in the case of **Pranay Sethi and others** reported in **2017(2) TN MAC 609 (SC)**, the claimants are entitled for a sum of Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. Accordingly, the amount awarded by the Tribunal for loss of consortium stands revised from Rs.25,000/- to Rs.40,000/- and the amount awarded by the Tribunal for funeral expenses stands reduced from Rs.25,000/- to Rs.15,000/- and this Court also awards a sum of Rs.15,000/- for loss of estate. The amount awarded by the Tribunal for love and



affection of the respondents 2, 3 and 4 is just and fair and the same is confirmed as ordered by the Tribunal. In such circumstances, the compensation awarded by the Tribunal stands increased from Rs.24,86,000/- to Rs.31,00,000/- in the manner stated below:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For Loss of dependency	23,76,000	29,70,000	enhanced
2.	For loss of consortium	25,000	40,000	enhanced
3.	For loss of love and affection of the respondents 2 & 3	50,000	50,000	confirmed
4.	For love and affection of the respondent 4	10,000	10,000	confirmed
5.	For funeral expenses	25,000	15,000	reduced
6.	For loss of estate		15,000	granted
	Total	24,86,000	31,00,000	By increasing a sum of Rs.6,14,000

5. In view of the above modification, the Civil Miscellaneous Appeal is allowed in part and this Court directs the second respondent/Insurance Company to deposit the entire award amount within a period of eight weeks from the date of receipt of a copy of this judgment along with interest at the rate of 7.5% from the date of accident till the date of realisation. On such deposit being made, the Tribunal is directed to transfer the respective share amount to the major claimants' account directly by way of RTGS/NEFT system, after getting their Account Details, within a period of three weeks thereafter. Since the second and third



appellants are minors, their shares shall be deposited in a Nationalised Bank, till they attain majority and the first appellant is permitted to withdraw interest once in three months.

No costs.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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To
The Subordinate Judge,
Motor Accident Claims Tribunal,
Kulithalai,
Karur District.

Copy to
The Section Officer
VR Section,
Madurai Bench of Madras High Court, Madurai-2 copies

+1 CC to Mr.C.JAWAHAR RAVINDRAN, Advocate (SR-98855[F] dated 18/11/2019)

+1 CC to Mr.N.SUDHAGAR NAGARAJ, Advocate (SR-99172[F] dated 18/11/2019)

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