



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

**THE HONOURABLE MR. JUSTICE N.SESHASAYEE**

**C.M.A. (MD)No.43 of 2020**

1.Maheswari  
2.Muthuselvam  
3.Kartheeshwari

... Appellants/Petitioners

vs.

1.R.Sundramahalingam

2.The Claims Manager,  
Chozhamandalam General Insurance Company Ltd.,  
ENT Hospital Opposite,  
Kalavasal,  
Madurai.

.. Respondents/Respondents

**PRAYER:** This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree made in M.C.O.P.No.76 of 2017 dated 24.09.2019 on the file of the Principal District Court/Motor Accidents Claims Tribunal, Virudhunagar District at Srivilliputtur.

|                |                         |
|----------------|-------------------------|
| For Appellants | : Mr.M.Thirunavukkarasu |
| For R2         | : Mrs.K.R.Shivasankari  |
| For R1         | : No Appearance         |

### **JUDGMENT**

The claimants in M.C.O.P.76 of 2017 on the file of Motor Accidents Claims Tribunal (Principal District Court), Srivilliputhur are the appellants herein. They challenged the quantum of compensation awarded by the Tribunal.

2. The accident is not in dispute, so as the liability. Only grounds on which the appeal is filed are on the choice of the multiplier adopted by the Tribunal and the compensation for loss of love and affection for the children.

3.1. Heard both sides. The learned counsel for the appellants/claimants submitted that the victim of the accident is an agriculturist aged about 45 years, and the Tribunal fairly fixed the monthly notional income at Rs.7,500/-. However, for the victim in the age group of 40 to 45 as per II schedule of the Motor Vehicles Act, multiplier applicable is '14' whereas the Tribunal has adopted '13' as the multiplier. Secondly, for loss of love and affection for the children and wife Rs.25,000/- each has been granted, which may require a re-consideration.



3.2. The learned counsel for the second respondent is seen in an unusual vehemence insisted that under the head of love and affection, the compensation has been fairly awarded at Rs.25,000/- each for both the children and the wife, but in addition to the same, a sum of Rs.25,000/- has been awarded on the head for loss of consortium to the first petitioner/wife of the deceased. However, on the choice of multiplier, the learned counsel fairly conceded that the tribunal atleast ought to have adopted '14' as multiplier rather than '13'.

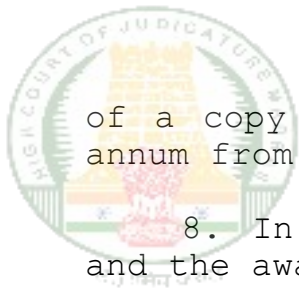
4. So far as choice of multiplier is concerned, this Court fixes it at '14'. By taking Rs.7500/- as the notional monthly income of the victim and adding 25 % thereof (Rs.1,875 to it towards future prospectus for rise in income) and after deducting 1/3<sup>rd</sup> towards personal expenses of the victim and applying the multiplier of '14', the total compensation comes to  $[(7500 + 1875) = 9375 - 3125 = (6250 \times 12 \times 14) = \text{Rs.10,50,000/-}]$ .

5. Further, a sum of Rs.25,000/- awarded under the loss of love and affection for the first petitioner is dropped. The compensation awarded on the head of loss of consortium for the first petitioner is increased to Rs.40,000/-. The compensation awarded for loss of love and affection for the two children is enhanced to Rs.50,000/- each. For funeral expenses, a sum of Rs.20,000/- awarded by the Tribunal is confirmed.

6. Accordingly, the appellants/claimants are entitled to get the following compensation:

| Sl. No. | Heads                                           | Amount awarded by Tribunal (Rs.) | Amount awarded by this Court (Rs.) |
|---------|-------------------------------------------------|----------------------------------|------------------------------------|
| 1.      | Loss of Income                                  | 7,80,000/-                       | 10,50,000/-                        |
| 2.      | Loss of love and affection (petitioners 1 to 3) | 75,000/-                         | -                                  |
| 3.      | Loss of love and affection (petitioners 2 & 3)  | -                                | 1,00,000/-                         |
| 4.      | Consortium(1 <sup>st</sup> petitioner)          | 25,000/-                         | 40,000/-                           |
| 5.      | For Funeral expenses                            | 20,000/-                         | 20,000/-                           |
|         | Total                                           | 9,00,000/-                       | 12,10,000/-                        |

7. The Insurance Company is now required to deposit the balance compensation amount payable on the basis of the amount determined by this judgment within a period of six weeks from the date of receipt



of a copy of this judgment with interest at the rate of 7.5% per annum from the date of petition till the date of realization.

8. In the result, this Civil Miscellaneous Appeal is allowed and the award is modified in the terms thereof. No costs.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Cm

**To**

1.The Principal District Court/  
Motor Accidents Claims Tribunal,  
Virudhunagar District at Srivilliputtur.

2.The Section Officer,  
V.R.Section, (2 copies)  
Madurai Bench of Madras High Court,  
Madurai.

**C.M.A. (MD) No.43 of 2020**

**04.12.2020**

VB (04.02.2021) 3P 4C