



Suseela Teacher Training Institute, due to negligent parking of the lorry bearing Registration No.TN-32-L-1161 without any parking signal, the motorcycle dashed behind the lorry.

(ii) Manivel died on 03.05.2011, as a result of an accident caused by a lorry bearing registration No.TN 32 L 1161 insured with the appellant Insurance Company. The dependents of the deceased Manivel who are the respondents 1 to 5 in the appeal preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.276 of 2011 seeking a compensation of Rs.8,00,000/- for the death caused to Manivel as a result of the accident.

(iii) The Motor Accident Claims Tribunal by its Award dated 30.11.2015 in M.C.O.P.No.276 of 2011 directed the Appellant Oriental Insurance Company to pay the respondents 1 to 5 a sum of Rs.11,97,000/- together with interest at 7.5% p.a. from the date of the claim till the date of realization.

3. Aggrieved by the Award dated 30.11.2015, the appeal has been filed by the Insurance Company.

4. Heard the learned counsel for the appellant and the learned counsel for the respondents.

5. The learned counsel for the respondents/claimants would contend that the claim petition has been filed under Section 163 (A) of Motor Vehicles Act, it can be converted into Section 166 (A) of the MV Act and relied upon the judgment reported in AIR 2009 SC 3056 - Ningamma and others Vs. United India Insurance Company Limited. Further, he contended that the accident had taken place due to the wrong parking of the lorry of the appellant/Insurance Company on the road and for conversion of petition under Section 166(A) of MV Act has to be established that the accident had taken place only due to the reason that four persons had travelled in a two wheeler, driven by the deceased at the time of the accident and he also relied upon the decision of the Hon'ble Supreme Court in the judgment reported in 2020 (1) TNMAC 161 - Mohammed Siddique and another Vs. National Insurance Company Limited and others.

6. Perused Ex.R3/Rough sketch. After perusing rough sketch, I find that an opportunity must be given to the claimants.

7. The learned counsel for the respondents relied upon the following judgments:

(i) 2018(1) TNMAC 745 (SC) - Nishan Singh Vs. Oriental Insurance Company Limited



(ii) 1992 (1) LW 25

(iii) 2005 (1) TNMAC 201 - National Insurance Company Limited, Chennai Vs. S.Rajesh

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8. After hearing both the counsels and after perusing the records, I find that the petition may be treated under Section 163 (A), of the MV Act in the interest of justice. The annual income of the deceased is fixed as Rs.40,000/-. Taking into consideration the age of the deceased at the time of accident, multiplier method 18 is adopted and 1/3rd deduction only is permissible. Accordingly, loss of income due to the death of the deceased to the claim petitioners are be assessed as Rs.40,000/-X18X2/3 = Rs.4,80,000/-. Rs.9,500 towards Loss of love and affection, funeral charges and loss of estate.

9. So far as the compensation awarded by the Tribunal under other heads are concerned, the same are modified to the extent as indicated infra.

Sl.No.	Heads	Tribunal Award	High Court
1	Loss of Dependency	Rs.9,72,000/-	Rs.4,80,000/-
2	Loss of Estate	Rs.10,000/-	-
3	Loss of Consortium	Rs.1,00,000/-	-
4	Loss of Love and Affection	Rs.1,00,000/-	Rs.9,500
5	Funeral and Transportation	Rs.25,000/-	
	Total	Rs.11,97,000/-	Rs.4,89,500/-

The amount awarded by the Tribunal under different heads, on summation it comes out to Rs.12,07,000/-, which is wrongly mentioned as Rs.11,97,000/- in the lower Court record.

10. Consequently, the total compensation amount of Rs.11,97,000/- awarded by the Tribunal is hereby modified and reduced to Rs.4,89,500/-. The appellant/Insurance Company is directed to deposit the modified compensation amount of Rs.4,89,500/- with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this judgment and on such deposit, the claimants are permitted to withdraw the entire award amount by filing an appropriate application and the payments are to be made through RTGS. Thus, the award dated 30.11.2015, passed in M.C.O.P.No.276/2011,



stands modified and C.M.A.No.1529/2016 stands allowed in part. Consequently, connected miscellaneous petition is closed. No costs.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AT

To

1.The Subordinate Judge,
The Motor Accidents Claims Tribunal,
Kallakurichi,
Villupuram District.

Copy to:

The Section Officer,
VR Section,
High Court,
Madras.

+1cc to Mr.K.Suryanarayanan, Advocate Sr No.10509
+1cc to J.Chandran, Advocate Sr No.10686

C.M.A.No.1529 of 2016 and
C.M.P.No.11662 of 2016

KK (CO)
PR (02/11/2021)