



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CMA(MD)No.400 of 2021

WEB COPY

1.S.Rekha
2.Minor Hariharan
3.R.Chitravel
4.Jeyalakshmi
(Minor Appellant No.2 is represented by the Appellant
No.1, his mother, guardian and next friend)

... Appellants

vs.

1.S.Nithya Krishna
2.The Branch Manager,
United India Insurance Company Ltd.,
54-A, Mythili Niwas,
Palani Road, Dindigul.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the Judgment dated 14.10.2020 passed in MCOP.No.1377 of 2015 on the file of the Motor Accidents Claims Tribunal, Special District Court, Tiruchirappalli.

For Appellants : Mr.R.Maheswaran

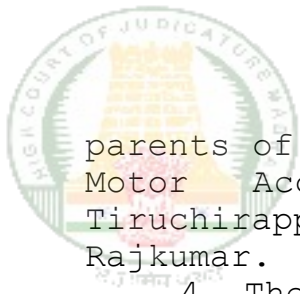
For R2 : Mr.A.Shajahan

J U D G M E N T

The appellants filed this appeal to set aside the Judgment dated 14.10.2020 in MCOP.No.1377 of 2015 on the file of the Motor Accidents Claims Tribunal, Special District Court, Tiruchirappalli.

2. On 11.07.2015, the deceased, namely, Sathish Rajkumar, who was aged 25 years was travelling in a bike bearing Registration No. TN 45 BX 5371. At that time, an Eicher Van bearing Registration No.TN 69 AC 3969, owned by the first respondent and insured with the second respondent came in a rash and negligent manner and dashed against the bike, as a result of which, the deceased sustained injuries all over the body and died in the Hospital on 17.07.2015.

3. The first appellant is the wife of the deceased, second appellant is the son and the third and fourth appellants are the



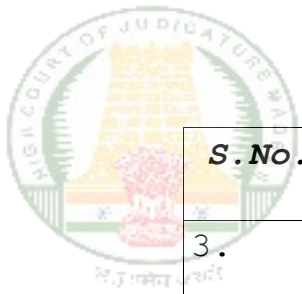
parents of the deceased. They filed MCOP.No.1377 of 2015 before the Motor Accidents Claims Tribunal, Special District Court, Tiruchirappalli claiming compensation for the demise of Sathish Rajkumar.

4. The Motor Accidents Claims Tribunal, Special District Court, Tiruchirappalli after perusing the materials on record, awarded a sum of Rs.17,73,500/- together with interest at the rate of 7.5% to the appellants as compensation. Seeking enhancement of the awarded compensation, the appellants/claimants have filed this appeal.

5. Heard the learned counsel appearing for the appellants and the learned counsel appearing for the second respondent.

6. The deceased was working as a lorry driver in Anu Transports. The employer of Anu Transports was examined as PW1. The Salary Certificate of the deceased was marked as Ex.P10. A perusal of the Salary Certificate shows that the salary of the deceased was Rs.25,000/- per month. However, since there was no supporting document for the Salary Certificate, the Trial Court decided that the Salary Certificate is not acceptable and fixed the salary of the deceased at Rs.7,500/- per month. Admittedly, the deceased was working as a lorry driver. The accident took place in the year 2015. Hence, this Court is of the opinion that fixing the income of the deceased at Rs.10,000/- per month would be justifiable. As per the decision of the Hon'ble Supreme Court in **National Insurance Co. vs Pranay sethi and others** reported in **2017 (2) TNMAC 601**, 40% should be added towards the future prospects of the deceased. Therefore, Rs.10,000/- + Rs.4,000/- (40% of Rs.10,000/-) = Rs.14,000/-. Since there are four dependants depending on the income of the deceased, 1/4th of the income deducted by the Trial Court towards the personal expenses of the deceased is confirmed. Hence, it would amount to Rs.14,000/- x 1/4 deduction = Rs.10,500/- Further, the multiplier 17 adopted by the Trial Court is also hereby confirmed. Thus, the loss of dependency would come to Rs.10,500/- x 12 x 17 = Rs.21,42,000/-. Further, Rs.35,000/- awarded to the first appellant/first claimant towards loss of consortium is enhanced to Rs.40,000/-, as per the decision rendered in **National Insurance Co. vs Pranay sethi and others** reported in **2017 (2) TNMAC 601 (SC)**. All the other heads awarded by the Trial Court are hereby confirmed. The award passed by this Court under various heads is extracted hereunder:

<i>S.No.</i>	<i>Head</i>	<i>Amount granted by this court</i>
1.	Loss of dependency	Rs.21,42,000/-
2.	Loss of consortium to first appellant	Rs.40,000/-



S.No.	Head	Amount granted by this court
3.	Loss of love and affection to the 2 nd , 3 rd and 4 th appellants	Rs.1,05,000/-
4.	Transport Expenses	Rs.7,000/-
5.	Funeral Expenses	Rs.10,000/-
6.	Loss of Estate	Rs.10,000/-
Total		Rs.23,14,000/-

7. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.17,73,500/- to Rs.23,14,000/- with interest at the rate of 7.5% per annum.

(iii) The appellants / claimants are directed to pay the court fee for the enhanced compensation amount, if any.

(iv) The second respondent, United India Insurance Company Limited is directed to deposit the enhanced compensation amount i.e., Rs.23,14,000/- (less the amount already deposited), if any, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.1377 of 2015 on the file of the Motor Accident Claims Tribunal / Special District Court, Thiruchirappalli within a period of six weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the appellants 1, 3 and 4 are at liberty to withdraw the same as per the order passed by the Tribunal after following due process of law. The apportionment granted by the Tribunal shall be kept intact. The share of the minor second appellant shall be deposited in any one of the nationalized Banks, till he attains majority. The first appellant/mother and guardian of the minor second appellant is permitted to withdraw the interest from the above said deposit, once in three months directly from the Bank and utilize the same for the welfare of the child.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Motor Accident Claims Tribunal,
Special District Court, Thiruchirappalli.

Copy to:

The Section Officer,V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.MAHESWARAN, Advocate (SR-32482[F] dated 25/10/2021)
CMA(MD)No.400 of 2021
22.10.2021

MGJ(06.12.2021) 4P 5C