



C.M.A(MD)No.656 of 2020

This matter is listed today under the caption 'For Being Mentioned' at the instance of the learned counsel appearing for the appellant.

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2. Heard the learned counsel for the appellant. Taking note of the submission made by the learned counsel for the appellant, the Registry is directed to issue the following judgment:-

This Matter having been posted under the Caption "For Being Mentioned" on 11/01/2022 and upon hearing Mr.C.Jawahar Ravindran, Advocate for the Appellant and Mr.A.anbalakan, Advocate for the Respondent the Court made the following order:-

'' BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A(MD)No.656 of 2020

and

C.M.P(MD)No.6600 of 2020

Divisional Manager,
The Oriental Insurance Company Limited,
No.16, Complex, 1st Floor,
North Veli Street,
Madurai District.

... Appellant/2nd Respondent

Vs.

1.M.Vellaikannu
W/o.Mookkan

2.M.Arunpandi
S/o.Mookkan

3. M.Pandiselvi

...1-3 Respondents/
1-3 Petitioners

D/o.Late Mookkan
(Minor R3 is declared as major & guardianship of her mother & natural guardian (R1) is discharged vide Court order, dated 11.01.2022 made in C.M.P(MD)Nos.5375 and 5371 of 2021 by SAIJ)

K.Veerammal (died)



4.S.Murugan

S/o.Shanmugam

(4th respondents remained exparte before the lower Court)

...4th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order dated 03.03.2020 passed in M.C.O.P.No.2117 of 2017 on the file of the Motor Accident claims Tribunal(VI Additional District Judge), Madurai.

For Appellant : Mr.K.Bhaskaran

For Respondents : Mr.A.Anbalakan

JUDGMENT

The Oriental Insurance Company, the second respondent in MCOP.No.2117 of 2017 on the file of the VI Additional District Judge, Madurai, has filed the present appeal.

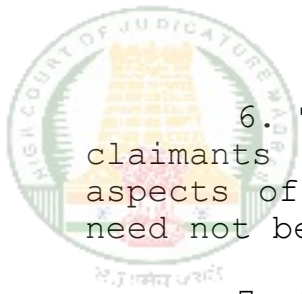
2. The case of the claimants is as follows:

On 18.04.2017, the deceased Mookan was travelling as owner of the goods in the TATA ACE bearing Registration No.TN-57-AF-5049 along Kottampatti Main Road near Sampatti Junction from East to West direction and at about 15.00 hours, a lorry bearing Registration No. TN 57 9159 hit the TATA ACE vehicle, as a result of which, the deceased sustained injuries and died on 04.06.2017. Hence the claimants, filed MCOP seeking compensation for the death of the deceased Mookan.

3. The learned VI Additional District Judge, Motor Accident Claims Tribunal, Madurai after analysing the evidence on record, awarded a compensation of Rs.20,00,000/- together with interest at the rate of 7.5% per annum to the claimants and directed the Insurance Company to pay the same. Aggrieved over the orders passed by the Tribunal, Oriental Insurance Company has filed the present appeal.

4. Heard Mr.K.Bhaskaran, learned counsel appearing for the appellant and Mr.A.Anbalakan, learned counsel appearing for the respondents.

5.The learned counsel appearing for the Oriental Insurance Company contended that the claimants did not adduce any evidence to show that the deceased was working as agriculturist and vegetable vendor. The Tribunal was wrong in fixing the income of the deceased as Rs.13,700/- per month, which is exorbitant. The compensation awarded under other heads are also high. He therefore, prayed for scaling down the compensation.



6. The learned counsel appearing for the respondents 1 to 3 / claimants contended that the Tribunal after considering all the aspects of the case, has awarded a just compensation and the same need not be reduced.

7. In the instant case, the deceased was aged 45 years on the date of the accident and was survived by his wife and two children. No documentary evidence was adduced by the respondents 1 to 3 / claimants to prove the actual income of the deceased. The accident is of the year 2017. In the absence of any income proof, this Court is inclined to reduce the notional monthly income from Rs.13,700/- to Rs.10,000/-. The Tribunal added 25% towards future prospects of the deceased and the same is hereby confirmed. There are three dependents and therefore $1/3^{\text{rd}}$ of the deceased's income deducted towards personal expenses is also confirmed. The deceased was aged 45 years. As per the decision in **Sarlavarma and others vs. Delhi Transport Corporation and another** reported in (2009) 6 SCC 121, the Tribunal adopted multiplier 14, which is also hereby confirmed. However, the Tribunal failed to award any amount to the deceased's children towards love and affection. Therefore, this Court awards a sum of Rs.40,000/- to the second respondent towards love and affection and a sum of Rs.50,000/- to the third respondent towards love and affection.

Calculation

Notional Income = Rs.10,000/-

Total = Rs.10,000/- + Rs.2,500/- (25%) = Rs.12,500/-

$1/3$ deduction = Rs.12,500/- x $2/3$

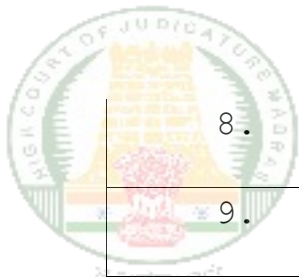
Loss of dependency

= Rs.12,500 /- x $2/3$ x 12 x 14

= Rs.14,00,000/-

8. Apart from the above said amounts, sum of Rs.5,000/-, Rs.1,000/-, Rs.96,525/-, Rs.15,000/- and Rs.15,000/- awarded towards 'transportation', 'damage to cloth', 'Medical Expenses', 'funeral expenses' and 'loss of estate', respectively by the Tribunal are hereby confirmed. The award passed by this Court under various heads is as follows:-

S.No.	Head	Amount granted by this court
1.	Loss of dependency	Rs.14,00,000/-
2.	Loss of estate	Rs.15,000/-
3.	Transportation	Rs.5,000/-
4.	Funeral expenses	Rs.15,000/-
5.	Damage to cloth	Rs.1,000/-
6.	Medical expenses	Rs.96,525/-
7.	Loss of love and affection(wife)	Rs.40,000/-



8.	Loss of love and affection(second respondent)	Rs.40,000/-
9.	Loss of love and affection(third respondent)	Rs.50,000/-
Total		Rs.16,62,525/-

9.In view of the said modification, this Civil Miscellaneous Appeal is partly allowed, and the award amount of Rs.20,00,000/- granted by the learned VI Additional District Judge (MCOP), Madurai, is reduced to Rs.16,62,525/-. The first respondent, who is the wife of the deceased, is entitled to Rs.7,62,525/- and the second respondent, who is the first child of the deceased is entitled to Rs.4,00,000/- and third respondent, who is the second child of the deceased, is entitled to Rs.5,00,000/- along with proportionate interest and costs.

10. The Appellant / Oriental Insurance Company is directed to deposit the entire compensation of Rs.16,62,525/- along with interest at the rate of 7.5% p.a from the date of petition till the date of deposit and with cost within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants ie. the respondents 1 to 3 are permitted to withdraw their respective shares as per the ratio fixed by this Court with proportionate interest and costs, after deducting any amount already received by them, if any. The excess amount, if any, already deposited by the appellant / Oriental Insurance Company, shall be refunded to the appellant in accordance with law. No costs. Consequently, connected C.M.P(MD)Nos.5371 of 2021 and 6600 of 2020 are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Motor Accidents Claims Tribunal,
The VI Additional District Judge,
Madurai.



2.The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

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C.M.A (MD) No. 656 of 2020
11.01.2022

RK(18/02/2022) 5P 4C