



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.476 of 2020

1. Rukmani
2. Selvi
3. Rekha
4. Ramachandran
5. Ravichandran
6. Kittanammal

... Appellants / Claimants

Vs.

1. Krishnasamy
2. The Branch Manager,
United India Insurance Company Ltd,
Door No.1, Jeevajothi Buildings,
Salai Road, Dindigul - 624 001.

...Respondents / Respondents

[1st respondent set exparte before the trial Court]

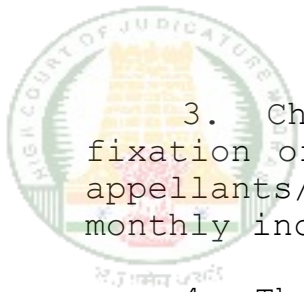
PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal and enhance the award amount made in M.C.O.P.No.235 of 2015 dated 20.01.2020 on the file of the Motor Accident Claims Tribunal/Additional District Judge, Dindigul.

For Appellant	: Mr.S.Pugalendhi
For Respondents	: Mr.J.S.Murali for R2

J U D G M E N T

The appellants/claimants have come forward with this Civil Miscellaneous Appeal against the award of the Motor Accident Claims Tribunal/Additional District Court, Dindigul, made in M.C.O.P.No.235 of 2015, dated 20.01.2020.

2. The brief facts of the case are as follows:- On 06.12.2014 at about 02.10 p.m., while the deceased Kaliyappan was travelling as a passenger along with other passengers in the 1st respondent vehicle bearing Registration No.TN 57 K 6868, the driver of the drove the bus with high speed and shake at moment Kaliyappan who was sitting near to the back side steps, fell down and sustained fatal head injuries and multiple injuries all over the body. He was taken to Rajaji Government Hospital, Dindigul for treatment and later, he succumbed to the injuries on 10.12.2014. The claimants of the deceased filed M.C.O.P.No.235 of 215 on the file of the Motor Accident Claims Tribunal/Additional District Judge, Dindigul and the Tribunal awarded a compensation of Rs.9,02,000/-.



3. Challenging the quantum of compensation in particular fixation of monthly income of the deceased at Rs.6000/- alone, the appellants/claimants have filed this appeal for enhancement of monthly income of the deceased.

4. The learned counsel for the petitioner would submit that since the deceased Kaliyappan was running a Tea stall at Malaipatty, the Tribunal ought to have fixed the monthly income at Rs.15,000/- per month including 50% towards future prospects to the deceased and he would pray to allow the present appeal.

5. Heard the learned counsel for the parties and perused the materials placed before this Court.

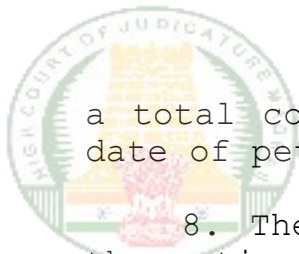
6. Perusal of record shows that the claimants claimed that the deceased by running a Tea stall, earned Rs.10,000/- per month and to substantiate the same, Property Tax receipt which stand in the name of the deceased was produced to substantiate that he was running a tea stall in that property. The learned Judge finding that there was no evidence to state that the petitioner ran tea stall in the property and keeping in mind the judgment of the Hon'ble Supreme Court fixed Rs.6,500/- as monthly income. On the date of accident the age of the deceased was 48 years. Considering the facts and circumstances of the case, it would be appropriate to fix the monthly income of the deceased at Rs.7,500/-. If monthly income is fixed at Rs.7,500/-, after adding 25% future prospects and deducting 1/4th towards the personal expenses of the deceased as per the judgment of the Hon'ble Supreme Court in **Sarla Verma v. Delhi Transport Corporation**, reported in **2009 (2) TN MAC 1 (SC)** and applying '13' multiplier, the loss of income would be Rs.10,96,875/-. Except the above, the compensation under others heads are not interfered with. Accordingly, the total compensation is calculated as follows:-

Loss of income	=	Rs.10,96,875 /-
Loss of Consortium	=	Rs. 20,000/-
Loss of love and affection to the 2 nd to 6 th petitioners	=	Rs. 1,50,000/-
Funeral Expenses	=	Rs. 30,000/-

Modified compensation	=	Rs. 12,96,875/-
(Less) Amount awarded by the Tribunal	=	Rs. 9,02,000/-

Enhancement	=	Rs. 3,94,875/-

7. Since the appellant restricted his claim amount only to Rs.3,00,000/-, the enhanced amount arrived at by this Court is restricted to Rs.3,00,000/-. Therefore, a sum of Rs.3,00,000/- is hereby awarded over and above the compensation of Rs.9,02,000/- awarded by the Tribunal. Therefore, the claimants are entitled for



a total compensation of Rs.12,02,000/- with 7.5% interest from the date of petition till the date of deposit.

8. The 2nd respondent/Insurance company is directed to deposit the entire compensation amount with 7.5% interest from the date of petition till the date of deposit, less the amount already deposited, if any, to the credit of M.C.O.P.No.235 of 2015 within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their respective shares in the ratio apportioned by the Tribunal with interest without filing formal permission petition before the Tribunal.

9. In the result, this Civil Miscellaneous Appeal is allowed.
No costs.

Sd/-

Assistant Registrar (csIII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To,

1.Motor Accident Claims Tribunal/Additional District Court,
Dindigul.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.S.MURALI, Advocate (SR-5507[F] dated 17/02/2021)

C.M.A(MD)No.476 of 2020
16.02.2021

MJ(CO)

KB(04.03.2021) 3P 5C