



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD) .No.838 of 2021

1.D.Karuppiyah

2.Petchi

...Appellants/Petitioners

Vs.

1.M/s.Supreme Transport Company,

A.G.Road, Nagaland,

Kohima - 797 001.

2.The Manager,

CUB-Claim,

M/s.United India Insurance Company Limited,

7A-West Veli Street,

Madurai - 1.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to allow this appeal and enhance the award amount in M.C.O.P.No.116 of 2018, dated 20.11.2020 on the file of the learned Motor Accident Claims Tribunal/District and Sessions Judge, Communal Clash Cases Court, Madurai.

For Appellants	:Mr.N.Kumar
For R-1	:No appearance
For R-2	:Mr.J.S.Murali

ORDER

This Civil Miscellaneous Appeal has been filed by the claimants to enhance the award amount passed by the Tribunal.

2.It is a case of fatal accident. On 16.10.2017 at about 11.00 hrs., the deceased boy Dinesh @ Dineshkumar drove his two wheeler bearing Regn. No.TN-64-M-8668 along with his friend one Santhosh as pillion rider, Tirumangalam - Dindigul Bye-pass Road, opposite to Audi Car company, a car loaded truck bearing Regn. No.NL-01-K-7495 came behind the petitioner's two wheeler and without any signal or right indication light turned the vehicle carelessly on the right side of the road in between the center median curve way. The truck front right side wheel hit against the deceased. Due to the accident, the said Dinesh died on the spot.

3.The claimants have filed a claim petition in M.C.O.P.No.116 of 2018 on the file of the learned Motor Accident Claims Tribunal/District and Sessions Judge, Communal Clash Cases Court,



Madurai, seeking compensation.

4.Before the Tribunal, on the side of the claimants two witnesses were examined as P.W.1 & P.W.2 and marked thirteen documents as Exs.P.1 to P.13 and one witness was examined as R.W.1 and Ex.R.1 was marked.

5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimants and the respondent and also on appreciating the evidences on record, the tribunal has fixed ratio 10% by the rider of the motor cycle and 90% by the driver of the truck. Against the same, the claimants have preferred this appeal to enhance the award of compensation passed by the tribunal.

6.Heard on either side. Perused the material documents available on record.

7.The claimants have filed claim petition in M.C.O.P.No.116 of 2018 for claiming compensation for the death of their son who died in an accident on 16.10.2017, when he drove the two wheeler bearing Regn. No.64-M-8668 with his friend one Senthil as pillion rider, near Tirumangalam - Dindigul Bye-pass road, the 1st respondent's driver drove the car loaded truck bearing Regn. No.NL-01-K-7495 came behind the two wheeler in rash and negligent manner and dashed against the two wheeler. Due to the said accident, he sustained multiple grievous injuries and died on the spot.

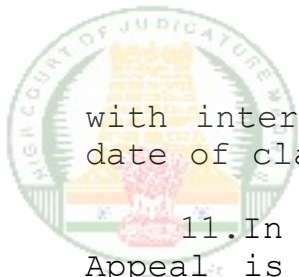
8.The tribunal has awarded a sum of Rs.9,26,500/-as compensation. To enhance the award amount the present appeal has been filed by the claimants.

9.The tribunal has fixed notional income as Rs.6,000/-, being the age of the deceased 20 years and also B.E. Student as per **Sarla Varma's case**, since bachelor 50% to be deducted.

10.As per Judgment reported in **2017 ACJ 1609 in the case of N.Kandasamy & Ors. Vs. G.R.Sampath & Ors.**, at the time of accident the deceased was aged about 20 years this Court has fixed notional income of Rs.10,000/-per month and 40% future prospectus to be added. So, monthly income Rs.14,000/-. Since the age of the deceased is 20 years at the time of accident multiplier 18 to be deducted. So, loss of income Rs.7,000/- x 12 x 18 = Rs.15,12,000/-.

Loss of Pecuniary Benefits ..	Rs.15,12,000/-
Loss of Estate ..	Rs. 15,000/-
Funeral Expenses ..	Rs. 15,000/-
Filal Consortium ..	Rs. 80,000/-

Total Compensation .. Rs.16,22,000/-



with interest at 7.5% p.a., as awarded by the Tribunal, from the date of claim petition till the date of realization.

11. In view of the said modification, this Civil Miscellaneous Appeal is partly allowed, and the award amount of **Rs. 9,26,480/-** granted by the learned Motor Accident Claims Tribunal/District and Sessions Judge, Communal Clash Cases Court, Madurai, is enhanced to **Rs. 16,22,000/-** with 7.5%. The insurance company is directed to deposit 90% of the award amount as fixed by the tribunal, within a period of six weeks, from the date of receipt of copy of the order. After depositing, the claimants are permitted to withdraw the award amount with interest. If the 2nd Respondent/insurance company deposited the excess amount is to be refunded to the insurance company. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

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/
District and Sessions Judge/
Communal Clash Cases Court,
Madurai.

Copy to

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

+1 CC to M/s.R.RAMADURAI, Advocate (SR-38235[F] dated 10/12/2021)
+1 CC to M/s.J.S.MURALI, Advocate (SR-38281[F] dated 10/12/2021)

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TP (CO)

KB (03.02.2022) 3P 7C

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