



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2021

CORAM :

WEB COPY

**THE HONOURABLE MRS.JUSTICE S.ANANTHI**

C.M.A.(MD)No.891 of 2019

and

C.M.P.(MD)Nos.5879 of 2021 and 11739 of 2019

National Insurance Company Limited,  
Rep.by its Branch Manager,  
Regional Office,  
No.1754/1756, Ganesh Complex,  
Manojiappa Stree, Thanjavur City,  
Thanjavur District.

...Appellant/Respondent No.2

Vs.

1.Anuradha  
2.Abinesh  
3.Minor Sridha  
4.Minor Subadharshini  
5.Ramayee  
(Minor R3 & R4 are represented by  
their mother 1<sup>st</sup> respondent herein)  
6.Waltar

...Respondent Nos.1 to 5/Petitioners

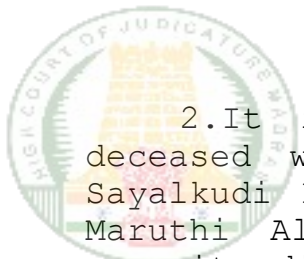
...Respondent No.6/Respondent No.1

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, to set aside the judgment and decree made in M.C.O.P.No.137 of 2017, dated 28.03.2019 on the file of the Motor Accidents Claims Tribunal/III Additional District and Sessions Court, Thanjavur @ Pattukkottai.

For Appellant :Mr.J.S.Murali  
For R1 to R5 :Mr.M.Viji  
For R6 :No Appearance

### **JUDGMENT**

This Civil Miscellaneous Appeal is filed by the appellant to set aside the judgment and decree made in M.C.O.P.No.137 of 2017, dated 28.03.2019 on the file of the Motor Accidents Claims Tribunal/III Additional District and Sessions Court, Thanjavur @ Pattukkottai on the ground that the quantum of compensation awarded by the Tribunal is very high.



2.It is a case of fatal accident. On 16.08.2017 when the deceased was riding in his two wheeler from Ramanathapuram to Sayalkudi ECR Road near Pulanthai Village, Mangaleshwari Nagar, a Maruthi Alto 800 Car bearing Registration No.TN-65-W-9184 from opposite direction was driven by its driver in a rash and negligent manner and hit the two wheeler. Due to the said accident, the deceased sustained grievous injuries and died on the spot.

3.The claimants have filed a petition in M.C.O.P.No.137 of 2017 on the file of the Motor Accidents Claims Tribunal/III Additional District and Sessions Court, Thanjavur @ Pattukkottai, seeking compensation of Rs.80,00,000/-.

4.Before the Tribunal, on the side of the claimants, four witnesses were examined as P.W.1 to P.W.4 and marked twenty two documents as Exs.P.1 to P.25. On the side of the respondents, no one was examined and one document was marked as R.W.1.

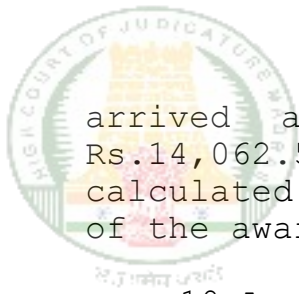
5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimants and the respondents and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the Maruthi Car and directed the appellant herein to pay a sum of Rs.32,97,500/- as compensation.

6.Against which, the appellant/second respondent has filed this present appeal to set aside the award of compensation passed by the Tribunal.

7.Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents 1 to 5 and perused the materials available on record.

8.The learned counsel for the appellant/Insurance company contended that the claimants have filed salary certificate of the deceased marked as Ex.P20 shows that at that time of accident the deceased just came from Dubai and earned 1800 tirucom per month and it comes around Rs.36,000/- in Indian Rupee. Though the authority of the certificate was not examined, the Tribunal has fixed loss of income as Rs.22,000/-. Hence, the award passed by the Motor Accidents Claims Tribunal is liable to be modified.

9.On perusal of records, it shows that the tribunal has fixed Rs.22,000/- towards monthly income of the deceased and the same cannot be retained and it has to be fixed as Rs.15,000/-. The Tribunal has awarded 25% towards future prospectus of the deceased. Therefore, the notional income of the deceased arrived at Rs.18,750/- (Rs.15,000/- + Rs.3,750/-). Since the deceased was a bachelor on the date of the accident, 25% of his income should be



arrived at Rs.18,750/- - Rs.4,687.5/- (25% of 18,750/-) = Rs.14,062.5/-. Thus, Rs.14,062.5/- x 12 x 13 = Rs.21,93,750/- is calculated as loss of dependency. Except the above, all other terms of the award passed by the Tribunal is confirmed.

10. Accordingly, the claimants are entitled for compensation as follows:

| Sl. No. | Compensation heads | Details of amount |
|---------|--------------------|-------------------|
| 1.      | Loss of Income     | Rs.21,93,750/-    |
| 2.      | Funeral Expenses   | Rs.20,000/-       |
| 3.      | Loss of Estate     | Rs.15,000/-       |
| 4.      | Loss of Consortium | Rs.40,000/-       |
| 5.      | Transport Charges  | Rs.5,000/-        |
|         | Total              | Rs. 22,73,750/-   |

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

11. Finally, this Civil Miscellaneous Appeal is partly allowed. No costs. The award amount of Rs.32,97,500/- passed by the Motor Accidents Claims Tribunal/III Additional District and Sessions Court, Thanjavur @ Pattukkottai in M.C.O.P.No.137 of 2017, dated 28.03.2019, is hereby modified. The respondents 1 to 5 /claimants are entitled to get Rs.22,73,750/-. (Rupees Twenty two lakhs Seventy three thousand seven hundred only) with interest at 7.5% p.a from the date of claim petition till the date of realization.

12. The appellant is directed to deposit the award amount, now fixed by this Court, within a period of four weeks from the date of receipt of a copy of this order, less the amount already deposited. On such deposit, the claimants are directed to withdraw their respective shares along with interest. Accordingly, the first claimant is entitled to 40% of the award amount and the claimants 2 to 5 each is entitled to 15 % of the award amount. Consequently connected miscellaneous petition are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

**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.

<https://hcservices.courts.gov.in/hcservices/>



To

1.The Motor Accidents Claims Tribunal  
Cum III Additional District Cum Sessions Court,  
Thanjavur @ Pattukottai

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

+1 CC to M/s.J.S.MURALI, Advocate ( SR-37718[F] dated 08/12/2021 )

Judgment made in  
C.M.A. (MD)No.891 of 2019  
and  
C.M.P. (MD)Nos.5879 of 2021 and 11739 of 2019  
07.12.2021

MK/15.02.2022/4P/5C