



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	02.02.2021
Date of Judgment	27.04.2021

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THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A (MD) No.769 of 2015
and Cross Objection (MD) No.36 of 2015
and
MP (MD) No.3 of 2015

(1) CMA (MD) No.769 of 2015:-

The Divisional Manager,
United India Insurance Co. Ltd.,
Therukku Veethi, Thanjavur. : Appellant/2nd Respondent

Vs.

1.Tmt.Valarmathi
2.Pavithra : R1 and R2/Petitioners 1 and 2
3.Tmt.Rajalakshmi : 3rd Respondent/R1

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (Special Sub Judge), Thanjavur, made in MCOP No.763 of 2013, dated 31.07.2014.

For Appellant : Mr.A.Ilango
For R1 and R2 : Mr.G.Karnan
For 3rd Respondent : Dispensed with

(2) Cross Objection (MD) No.36 of 2015:-

1.Tmt.Valarmathi
2.Pavithra : Appellants/R1 & R2/P1 & P2

Vs.

1.Tmt.Rajalakshmi : 1st Respondent/R3//R1
2.The Divisional Manager,
United India Insurance Co. Ltd.,
Therukku Veethi,
Thanjavur. : 2nd respondent/Appellant/ 2nd Respondent
(R1 set Exparte before Tribunal)

PRAYER:- Cross Objection has been filed under Order 41 Rule 22 of the Civil Procedure Code, to enhance the compensation amount to the claimants made in MCOP No.763 of 2013 on the file of the Motor



Accident Claims Tribunal (Special Sub Judge), Thanjavur, dated 31.07.2014.

For Cross Objectors : Mr.G.Karnam

For 1st Respondent : Dispensed with

For 2nd Respondent : Mr.A.Ilango

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COMMON JUDGMENT

CMA(MD)No.769 of 2015 has been filed by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal (Special Sub Judge), Thanjavur, made in MCOP No.763 of 2013, dated 31.07.2014, whereas the Cross Objection (MD)No.36 of 2015 has been filed by the claimants for enhancement of compensation.

2.Since both the Civil Miscellaneous Appeal and the Cross Objection are arising out of the same award, they heard jointly and disposed of by this common judgment.

3.The brief facts of the case is that on 27.05.2013 at about 11.45 pm, the deceased Singaravelu along with his wife Valarmathi (1st claimant) were returning from Trichy Airport in a Scorpio Car PY-02-D-0510 on Thanjavur-Kumbakonam Road and when they were nearing Thiruppalathurai Thirumalai Cement Works, the driver of the Car drove it in a rash and negligent manner and lost control over the vehicle, dashed on the palm tree. In the accident, the deceased sustained grievous injuries, while the 1st claimant was sustained injuries. Immediately, they were taken to the Kumbakonam Sugam Hospital and subsequently, the deceased was referred to Vinothagan Hospital, Thanjavur, where he was reported dead. The legal heirs of the deceased Singaravelu filed a claim petition seeking compensation of Rs.75,00,000/- for the death of the deceased Singaravelu.

4.The claimants have stated that the deceased was 53 years at the time of accident and he was working as 'Revenue Inspector', thereby he was earning Rs.31,226/- per month. It is alleged that the said Singaravelu died only due to the negligence on the part of the driver of the Car.

5.In the counter filed by the Appellant Insurance Company, they disputed the manner of accident and their liability to pay compensation.

6.Before the tribunal, on the side of the claimants, 2 witnesses were examined and marked 10 documents. On the side of the Appellant Insurance Company, no witness was examined and no document was marked.

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7.The Tribunal, on consideration of oral and documentary



evidence adduced by the parties, came to the conclusion that the driver of the offending vehicle has caused the accident and awarded compensation of Rs.31,76,000/- together with interest @ 7.5% p.a.

8. Heard both sides and perused the materials available on record.

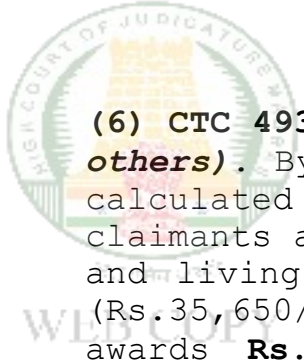
9. The manner of the accident and the finding on negligence are not in dispute and the appeal filed by the Insurance Company is confined only to quantum of compensation awarded by the Tribunal.

10. Even though so many grounds were raised in the grounds of appeal, the learned counsel for the appellant Insurance Company mainly argued that the tribunal erred in awarding higher quantum of compensation to the claimants and failed to award a fair compensation and the tribunal erred in adding 50% of the monthly salary towards future prospects and the monthly income arrived at by the tribunal is on the higher side and the award of the tribunal under the conventional heads are also on the higher side, hence, the award of the tribunal has to be reduced. On the other hand, the learned counsel for the Cross Objectors/Claimants submitted that the tribunal has erroneously deducted 50% of the monthly income towards personal expenses and the tribunal ought to have deducted only 1/3rd of the monthly income of the deceased towards personal expense and prays for enhancement of compensation.

11. It is not in dispute that the deceased was working as 'Revenue Inspector' and he died at the age of 53 years. On perusal of Ex.P6, the deceased was drawing salary of Rs.31,266/- at the time of death. The tribunal based on the evidence, fixed the income of the deceased at Rs.31,000/- per month. By adding 50% towards future prospects and applying multiplier '11' and after deducting 50% for his personal expenses, the tribunal has awarded Rs.29,70,000/- towards loss of income. Further, the tribunal has awarded Rs.1,00,000/- towards consortium; Rs.52,500/- towards loss of love and affection; Rs.25,000/- towards funeral expenses and Rs.28,500/- towards medical bills. In total, the tribunal has awarded Rs.31,76,000/- to the claimants along with interest @ 7.5% p.a.

12. Perusal of the records would reveal that the deceased was working as 'Revenue Inspector' in Government Service and he was earning Rs.31,266/- per month, as seen from Ex.P6 Salary Certificate. Based on the evidence the tribunal has rightly fixed Rs.31,000/- as monthly income of the deceased.

13. It is settled law that in case the deceased was between the age of 50 to 60 years, the additional should 15%. In the instant case, the tribunal has added 50% towards future prospects. Hence, this court is of the considered view that 15% has to be added towards future prospects to calculate the income of the deceased, as per the decision of the Hon'ble Supreme Court reported in **2017**



(6) CTC 493 (**National Insurance Company Limited vs. Pranay Sethi and others**). By doing so, the monthly loss of income of the deceased is calculated at Rs.35,650/- (Rs.31,000/- + Rs.4,650/-). Since the claimants are 2 in number, after deducting $1/3^{\text{rd}}$ towards his personal and living expenses, the monthly income is arrived at Rs.23,767/- (Rs.35,650/- $\times 1/3$). By applying proper multiplier 11, this court awards **Rs.31,37,244/-** (Rs.23,767/- $\times 12 \times 11$) towards loss of income. In addition to that, under the conventional heads, as per the decisions in **Pranay Sethi's case** and **Magma General Insurance's case**, this Court awards Rs.40,000/- towards loss of consortium to the 1st claimant; Rs.40,000/- towards loss of consortium to the 2nd claimant; Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. In total, the claimants would be entitled for **Rs.32,47,244/-** rounded off to **Rs.32,47,000/-** together with interest @ 7.5% p.a.

14. In the result, both the Civil Miscellaneous Appeal and the Cross Objection are disposed of. The award of the tribunal is modified into **Rs.32,47,000/-**. The appellant Insurance Company is directed to deposit the modified award amount together with interest @ 7.5% p.a. from the date of petition till the date of deposit, less the amount already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such compliance, the both the claimants are entitled to withdraw their share as apportioned by the tribunal with accrued interest and costs without filing any formal petition before the tribunal. The claimants shall pay additional court fee for the enhanced compensation. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (AE)

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/ /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

1.The Special Subordinate Judge,
The Motor Accident Claims Tribunal/
Thanjavur.

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

+1cc to Mr.Ilango, Advocate, SR No.17982

+1cc to Mr.G.Karnan, Advocate, SR No.17601

CMA(MD) No.769 of 2015

and

Cross Objection(MD) No.36 of 2015

27.04.2021

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