



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 21.01.2022	Delivered on: 14.02.2022
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CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.Nos.740, 741 & 4033 of 2008

C.M.A.No.740 of 2008

Subramanian

.. Appellant /Petitioner

Vs.

1.V.K.Veerakumar

2.The United India Assurance Company Limited,
Office Situated at Giriram Building Main Road,
Gobichettipalayam,
Erode District.

.. Respondents /Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the common award and decree dated 15.02.2007 made in M.C.O.P.No.8 of 2004, on the file of the Sub Court, (Motor Accidents Claims Tribunal), Bhavani.

For Appellant : Mr.M.Lokesh
for M/s.Ma.P.Thangavel

For R2 : Mr.S.Arunkumar

C.M.A.No.741 of 2008

1.Saraswathi
2.Sakthivel
3.Murugan
4.Moorthy

.. Appellants/Petitioners

Vs.

1.V.K.Veerakumar



2.The United India Assurance Company Limited,
Office Situated at Giriram Building Main Road,
Gobichettipalayam,
Erode District.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the common award and decree dated 15.02.2007 made in M.C.O.P.No.84 of 2004, on the file of the Sub Court, (Motor Accidents Claims Tribunal), Bhavani.

For Appellants :Mr.M.Lokesh
for M/s.Ma.P.Thangavel

For R2 :Mr.S.Arunkumar

C.M.A.No.4033 of 2008

The United India Insurance Company Limited,
No.3, Giri Ram Buildings,
Gobi Main Road,
Gobichettipalayam,
Gobi Taluk.

.. Appellant /R2

Vs.

1.Ramayee ...Respondent 1/Petitioner
2.V.K.Veerakumar .. Respondent 2/R1

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 20.01.2007 made in M.C.O.P.No.52 of 2006, on the file of the Additional District Judge, Fast Tract Court-4, (Motor Accidents Claims Tribunal), Bhavani.

For Appellant :Mr.S.Arunkumar

For R1 :Mr.M.Lokesh
for M/s.Ma.P.Thangavel

C O M M O N J U D G M E N T
(The matter is heard through "Video Conferencing")

C.M.A.Nos.740 & 741 of 2008 are filed against the common award and decree dated 15.02.2007 made in M.C.O.P.Nos.8 and 84 of 2004, on the file of the Sub Court, (Motor Accidents Claims Tribunal), Bhavani.



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C.M.A.No.4033 of 2008 is filed against the award and decree dated 20.01.2007 made in M.C.O.P.No.52 of 2006, on the file of the Additional District Judge, Fast Tract Court-4, (Motor Accidents Claims Tribunal), Bhavani.

2.All the Civil Miscellaneous Appeals are arising out of the same accident and hence, they are disposed of by this common judgment.

3.The parties are referred to as per their respective ranks in the claim petitions, for the sake of convenience.

4(i). The claimant in M.C.O.P.No.8 of 2004 filed the said claim petition, claiming a sum of Rs.2,50,000/- as compensation for the injuries sustained by him in the accident that took place on 15.03.2003.

4(ii). The claimants in M.C.O.P.No.84 of 2004 filed the said claim petition, claiming a sum of Rs.7,00,000/- as compensation for the death of one Kulandavel @ Kunjupayan in the accident that took place on 15.03.2003.

4(iii). Originally, the claimant in M.C.O.P.No.9 of 2004 filed the said claim petition on the file of the Sub Court, Bhavani, claiming a sum of Rs.2,50,000/- as compensation for the injuries sustained by her in the accident that took place on 15.03.2003. Later, the said M.C.O.P.No.9 of 2004 was transferred to the file of Fast Track Court No.4, Bhavani, Erode District and renumbered as M.C.O.P.No.52 of 2006.

5.According to the claimants, on the date of accident, the deceased Kulandavel @ Kunjupayan and the injured claimants were returning from Periyur Thottiapalayam after attending Paddy Harvesting work in a Lorry bearing Registration No.MDY-6293, owned and driven by the 1st respondent, along with Paddy bags which they received as wages. While the said Lorry was nearing Periya Earikarai on the Anthiyur to Vellithiruppur road, the driver of the said Lorry drove the same in a rash and negligent manner at a high speed, without observing the traffic rules, turned the Lorry in a bend without slowing the vehicle. Due to the said impact, the Lorry capsized and the injured claimants and the said Kulandavel @ Kunjupayan fell down along with the paddy bags on the road and thus the accident occurred. In the accident, the said Kulandavel @ Kunjupayan sustained fatal injuries and the injured claimants sustained grievous injuries. The accident occurred only due to rash and negligent driving by the 1st



respondent, driver-cum-owner of the Lorry. Hence, the injured claimants filed M.C.O.P.Nos.8 of 2004 and 52 of 2006, claiming compensation for the injuries sustained by them and the claimants in M.C.O.P.No.84 of 2004 filed the said claim petition, claiming compensation for the death of Kulandavel @ Kunjupayan against the respondents as owner and insurer of the vehicle respectively.

6.The 1st respondent, owner of the Lorry, remained exparte before the Tribunal in all the claim petitions.

7.The 2nd respondent-Insurance Company filed separate counter statement in all the claim petitions and commonly denied all the averments made by the claimants in the claim petitions. According to the 2nd respondent, the claimants have to prove that the accident occurred only due to rash and negligent driving by driver of the Lorry. The injured claimants and the deceased Kulandavel @ Kunjupayan travelled in the Lorry as unauthorized passengers along with Paddy bags and violated policy conditions. Hence, the 2nd respondent is not liable to pay any compensation to the claimants. The injuries sustained by the claimant in M.C.O.P.Nos.8 of 2004 and 52 of 2006 are simple in nature, as they took treatment only in a Private Hospital at Anthiyur. The claimants in M.C.O.P.No.84 of 2004 have to prove that they are the dependents as well as the only legal heirs of the deceased Kulandavel @ Kunjupayan, by producing relevant documents. Further, they have to prove the age, avocation and income of the deceased to claim compensation. The claimants 2 to 4 in M.C.O.P.No.84 of 2004 got married long back and hence, they are not entitled to any compensation as dependents of the deceased. In any event, the total compensation claimed by the claimants is excessive and prayed for dismissal of the claim petitions.

8.Before the Tribunal, in M.C.O.P.Nos.8 and 84 of 2004, the claimant in M.C.O.P.No.8 of 2004 and 1st claimant in M.C.O.P.No.84 of 2004 examined themselves as P.W.1 and P.W.2 respectively and examined one Dr.A.K.Thambiran as P.W.3 and marked 10 documents as Exs.P1 to P10. In M.C.O.P.No.52 of 2006, the claimant examined herself as P.W.1 and examined Dr.R.Krishnasamy as P.W.2 and marked 11 documents as Exs.P1 to P11. In all the claim petitions, the 2nd respondent examined one Abbas, their Assistant Manager as R.W.1 and marked the policy copy of the Lorry as Ex.R1.

9(i). The learned Subordinate Judge (Motor Accidents Claims Tribunal), Bhavani, considering the pleadings, oral and documentary evidence in M.C.O.P.Nos.8 and 84 of 2004, held that



the accident occurred due to rash and negligent driving by the 1st respondent, driver-cum-owner of the Lorry and fixed 50% negligence on the part of the injured claimant and deceased Kulandavel @ Kunjupayan, as they violated Motor Vehicles Act by travelling in a Lorry along with the goods. The Tribunal awarded a sum of Rs.10,000/- and Rs.4,90,800/- as compensation to the claimant/claimants in M.C.O.P.Nos.8 and 84 of 2004 respectively and directed the 1st respondent to pay a sum of Rs.5,000/- and Rs.2,45,400/-, being 50% of the award amount as compensation to the claimant/claimants in both the claim petitions respectively. The Tribunal dismissed the claim petition as against the 2nd respondent-Insurance Company.

9(ii). The learned Additional District Judge, Fast Track Court - 4, (Motor Accidents Claims Tribunal), Bhavani, considering the pleadings, oral and documentary evidence in M.C.O.P.No.52 of 2006, held that the accident occurred due to rash and negligent driving by the 1st respondent, driver-cum-owner of the Lorry and directed the 2nd respondent-Insurance Company to pay a sum of Rs.82,000/- as compensation to the claimant.

10.Questioning the liability fixed on the 1st respondent and not being satisfied with the amounts awarded by the Tribunal in the common award dated 15.02.2007 made in M.C.O.P.Nos.8 and 84 of 2004, the claimants have come out with C.M.A.Nos.740 and 741 of 2008.

11.Against the award dated 20.01.2007 made in M.C.O.P.No.52 of 2006, the 2nd respondent-Insurance Company has come out with C.M.A.No.4033 of 2008.

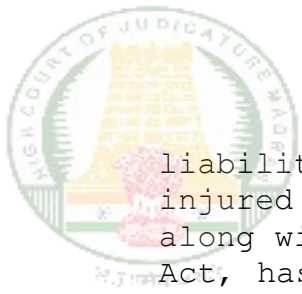
12(i). The learned counsel appearing for the claimant in M.C.O.P.No.8 of 2004 [C.M.A.No.740 of 2008] contended that the Tribunal ought to have fixed entire liability on the respondents 1 and 2, as the claimant travelled as owner of the Paddy goods in the Lorry at the time of accident. The claimant is not a gratuitous passenger and there is no negligence on the part of him. The Tribunal, considering the evidence of P.W.1, having rightly held that the accident has occurred only due to negligence on the part of the 1st respondent, erroneously fixed 50% negligence on the part of the claimant. The Tribunal ought to have awarded entire compensation to the claimant. In the accident, the claimant sustained grievous injuries all over the body viz., fracture in left hand and right knee, bleeding in head, cut injury in right hip and underwent surgery. For the injuries sustained in the accident, he has taken treatment as in-



patient at Amman Hospital, Anthiyur for more than one month and also took out-patient treatment for long time. The Tribunal, without considering the evidence of P.W.3 Doctor and without fixing disability as assessed by P.W.3 Doctor, awarded only a sum of Rs.10,000/- towards pain and suffering, which is very meagre. Due to the injuries sustained by him in the accident, the claimant could not able to do his day to day work and his entire life is affected. The Tribunal ought to have considered the same and applied multiplier method to award compensation towards loss of income. In any event, the total compensation awarded by the Tribunal is very meagre and prayed for setting aside the portion of the award fixing 50% negligence on the part of the claimant and for enhancement of the compensation.

12(ii).The learned counsel appearing for the claimant in M.C.O.P.No.84 of 2004 [C.M.A.No.741 of 2008] contended that the Tribunal ought to have fixed entire liability on the respondents 1 and 2, as the deceased Kulandavel @ Kunjupayan travelled as owner of the Paddy goods in the Lorry at the time of accident, instead of relying on Section 147 of the Motor Vehicles Act. The Tribunal erred in dismissing the claim petition as against the 2nd respondent-Insurance Company from its liability. The deceased Kulandavel @ Kunjupayan is not a gratuitous passenger and there is no negligence on the part of him. The Tribunal, considering the evidence of P.W.1, having rightly held that the accident has occurred only due to negligence on the part of the 1st respondent, erroneously fixed 50% negligence on the part of the deceased Kulandavel @ Kunjupayan. The Tribunal ought to have awarded entire compensation to the claimants. The Tribunal ought to have considered the evidence of P.W.2, wife of the deceased, and fixed a sum of Rs.6,000/- per month as notional income of the deceased, who was aged 50 years at the time of accident, doing Agricultural and Real Estate business. The Tribunal has granted compensation along with interest at the rate of 6% per annum. The Tribunal failed to appreciate the raise in cost of living. In any event, the total compensation awarded by the Tribunal is very meagre and prayed for setting aside the portion of the award fixing 50% negligence on the part of the deceased Kulandavel @ Kunjupayan and for enhancement of the compensation.

13.Per contra, in C.M.A.Nos.740 and 741 of 2008, the learned counsel appearing for the 2nd respondent-Insurance Company contended that at the time of accident, the injured claimant and the deceased Kulandavel @ Kunjupayan traveled as unauthorized passengers in the lorry belonging to 1st respondent and the Tribunal considering the same, has rightly dismissed the claim petition as against 2nd respondent-Insurance Company from its



liability. The Tribunal further considering the fact that the injured claimant and deceased Kulandavel @ Kunjupayan traveled along with Paddy bags in the lorry in violation of Motor Vehicles Act, has rightly fixed 50% negligence on the part them. There is no error in fixing 50% negligence on the part of the injured claimant as well as on the part of deceased Kulandavel @ Kunjupayan and also fixing the liability on the part of the 1st respondent. The injuries sustained by the injured claimant is simple in nature and a sum of Rs.10,000/- awarded by the Tribunal as compensation is not meagre. Further, the claimants in M.C.O.P.No.84 of 2004 have not proved the avocation and income of the deceased by producing valid documents. In the absence of any material evidence with regard to avocation and income of the deceased, the Tribunal fixed a sum of Rs.3,000/- per month as notional income of the deceased and awarded a sum of Rs.4,90,800/- as compensation to the claimants and the same is not meagre. The claimants have not made out any case for enhancement of compensation and prayed for dismissal of both the appeals.

14.The learned counsel appearing for the 2nd respondent-Insurance Company in M.C.O.P.No.52 of 2006 [C.M.A.No.4033 of 2008] contended that the 1st respondent has violated the policy condition by permitting passengers to travel in a goods vehicle, which is also contrary to the provisions of the Motor Vehicles Act. The Tribunal ought to have accepted the evidence of R.W.1 and contentions of Ex.R1 and dismissed the claim petition as against the 2nd respondent-Insurance Company. The Tribunal erroneously came to the conclusion that the driver of the Lorry was responsible for the accident, when the same has occurred while the claimant was negligently travelling on the top of goods in the Lorry. The Tribunal ought to have held that the 1st respondent has committed wilful disobedience of Rules 236 and 238 of the Tamil Nadu Motor Vehicle Rules and dismissed the claim petitions as against the 2nd respondent-Insurance Company. Only for the purpose of claiming compensation from the 2nd respondent, the claimant alleged that she traveled in the Lorry as owner of the goods. He further submitted that in connected M.C.O.P.Nos.8 and 84 of 2004 filed by the injured claimant and legal heirs of the deceased Kulandavel @ Kunjupayan, who are co-passengers of the claimant herein, the Tribunal rightly dismissed the claim petition against the 2nd respondent and prayed for dismissal of the claim petition as against the 2nd respondent-Insurance Company and allowing the appeal.

15.Per contra, the learned counsel appearing for the claimants in C.M.A.No.4033 of 2008 contended that the Tribunal



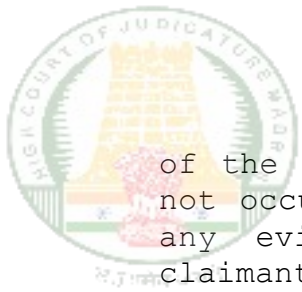
considering the entire materials on record, has rightly fixed the liability on the part of the 2nd respondent-Insurance Company and there is no error in the said finding of the Tribunal and prayed for dismissal of the appeal.

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16.The 1st respondent remained exparte before the Tribunal in all the claim petitions and hence, notice to the 1st respondent was dispensed with as per the order of this Court dated 17.09.2012 in all the appeals.

17.Heard the learned counsel appearing for the claimant/claimants as well as the 2nd respondent-Insurance Company in all the claim petitions and perused the entire materials available on record.

18.From the materials on record, it is seen that all the three claim petitions are filed in respect of same accident claiming compensation for the death of one Kulandavel @ Kunjupayan and injuries sustained by claimant in M.C.O.P.Nos.8 of 2004 and 52 of 2006. The facts pleaded by the claimants are same. According to the claimants, the injured claimants and deceased Kulandavel @ Kunjupayan are Agricultural Coolies and after harvest, they were paid their wages in the form of Paddy bags. They have engaged a Lorry owned by the 1st respondent and travelled in the said Lorry along with the Paddy bags, which was received by them as their wages. It is the case of the claimants that due to rash and negligent driving by the 1st respondent, the accident occurred. They claimed compensation against the respondents as owner and insurer of the Lorry. It is the case of the 2nd respondent-Insurance Company that injured claimants and deceased Kulandavel @ Kunjupayan traveled in the goods vehicle as gratuitous passengers and hence, the Insurance Company is not liable to pay compensation. Both the Tribunals, considering the evidence, held that accident occurred only due to rash and negligent driving by the 1st respondent, driver of the Lorry. The 2nd respondent-Insurance Company, in C.M.A.No.4033 of 2008, has raised a ground that accident has not occurred due to rash and negligent driving by the 1st respondent, but only due to the negligence on the part of the injured claimants and deceased Kulandavel @ Kunjupayan, as they were travelling on the top of the goods in the backside of the Lorry. The 2nd respondent has not let in any evidence to show that the accident has occurred only due to the injured claimants and deceased Kulandavel @ Kunjupayan who travelled on the top of the goods. On the other hand, the claimants have let in both oral and documentary evidence, especially, Ex.P1 - FIR and proved that accident occurred only due to rash and negligent driving by the 1st respondent. The claim



of the 2nd respondent-Insurance Company is that the accident did not occur due to the negligence of the 1st respondent is without any evidence and contrary to the evidence let in by the claimants.

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Hence, there is no error in the award of the Tribunal fixing negligence on the part of the 1st respondent.

19. As far as the liability of the 2nd respondent-Insurance Company is concerned, as per Section 147 of the Motor Vehicles Act, when owner of the goods or his authorised representative travelled in the goods vehicle along with their goods, the Insurance Company is liable to pay compensation. In the present case, the claimants have pleaded that the injured claimants, deceased Kulandavel @ Kunjupayan, along with one Mannathan, travelled along with the Paddy bags, which was received by them as their wages, in the Lorry. They have let in evidence to prove the same. The 2nd respondent-Insurance Company has not let in any evidence to show that at the time of accident, there were no Paddy bags in the Lorry and injured claimants and deceased are only gratuitous passengers. When the 2nd respondent has taken a specific stand that injured claimants and deceased invited the accident by travelling on the top of the goods, it is deemed that the 2nd respondent has admitted that the injured claimants and deceased Kulandavel @ Kunjupayan, traveled along with their Paddy bags. The 2nd respondent has not let in any evidence to show that goods on which the injured claimants and deceased Kulandavel @ Kunjupayan travelled did not belong to them, but it belongs to some third parties. In view of the same, this Court is of the view that the injured claimants and deceased Kulandavel @ Kunjupayan traveled along with their goods as owners. Further, as per Rule 236 of the Tamil Nadu Motor Vehicles Rule, six persons can travel in the goods vehicle. The owner of the goods can travel on the backside of the goods vehicle by sitting on the top of their goods. When the accident occurs at the time when owners travelled along with the goods sitting at the top of the goods, the Insurance Company is liable to pay compensation, when accident occurred due to rash and negligent driving by driver of the insured vehicle. The learned Subordinate Judge, (Motor Accident Claims Tribunal), Bhavani failed to properly appreciate the evidence let in, in M.C.O.P.Nos.8 and 84 of 2004 and failed to properly consider the provisions of Section 147 of the Motor Vehicles Act and Rule 236 of the Tamil Nadu Motor Vehicles Rules and well settled judicial pronouncements with regard to owners travelling in the goods vehicle along with their goods.

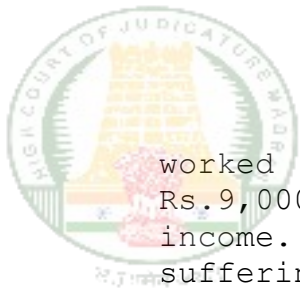


20. For the above reason, the finding of the Tribunal in the common award dated 15.02.2007, dismissing M.C.O.P.Nos.8 and 84 of 2004, as against the 2nd respondent-Insurance Company and fixing 50% negligence on the part of the injured claimant and deceased Kulandavel @ Kunjupayan are liable to be set aside and is hereby set aside.

C.M.A.No.740 of 2008

21. As far as the quantum of compensation granted by the Tribunal in M.C.O.P.No.8 of 2004 is concerned, the Tribunal except granting a sum of Rs.10,000/- towards pain and suffering, did not award any amount under other heads. In the accident, the claimant sustained grievous injuries all over the body viz., fracture in left hand and right knee, bleeding in head, cut injury in right hip and has taken treatment as in-patient at Sri Amman Hospital, Anthiyur from 15.03.2003 to 15.04.2003. He underwent a surgery for fracture joining. He filed Ex.P6 - wound certificate to substantiate the same. P.W.3-Doctor examined the claimant and certified that the claimant suffered 24% permanent disability and issued Ex.P9 - disability certificate to that effect. The claimant failed to prove that he suffered functional disability and lost his earning capacity. Hence, he is not entitled to compensation by adopting multiplier method. Considering the evidence of P.W.3 Doctor and Ex.P9-disability certificate, the claimant is entitled to compensation for 24% disability by adopting percentage method. Considering the year of accident, the claimant is entitled to a sum of Rs.1,000/- per percentage for 24% disability. Hence, a sum of Rs.24,000/- [Rs.1,000/- x 24%] is awarded towards disability. Taking into consideration the period of treatment, nature of injuries suffered and disability sustained, a sum of Rs.5,000/- each is awarded towards attendant charges, extra nourishment, loss of amenities and transportation charges. Further, a sum of Rs.500/- is awarded towards damages to clothes. Taking into account the period of treatment taken by the claimant, he would have spent some amount towards his medical expenses. Hence, a sum of Rs.5,000/- is awarded towards medical expenses.

21(i). It is the contention of the claimant that at the time of accident, he was aged 23 years, working as an Agriculturist and was earning a sum of Rs.4,000/- per month. The claimant did not file any document to prove his avocation and income. The accident is of the year 2003. Considering the year of accident and nature of work done by the claimant, a sum of Rs.3,000/- per month is fixed as notional income of the claimant. Due to the injuries sustained in the accident, he would not have



worked atleast for a period of three months. Hence, a sum of Rs.9,000/- [Rs.3,000/- x 3 months] is awarded towards loss of income. The amount awarded by the Tribunal towards pain and suffering is just and reasonable and hence, the same is hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	-	9,000/-	Granted
2.	Pain and sufferings	10,000/-	10,000/-	Confirmed
3.	Transportation	-	5,000/-	Granted
4.	Extra nourishment	-	5,000/-	Granted
5.	Damage to clothes	-	500/-	Granted
6.	Medical expenses	-	5,000/-	Granted
7.	Loss of amenities	-	5,000/-	Granted
8.	Attendant charges	-	5,000/-	Granted
9.	Disability	-	24,000/-	Granted
	Total	10,000/-	68,500/-	Enhanced by Rs.58,500 /-
	50% of compensation	5,000/-	-	

The Tribunal has granted compensation along with interest at the rate of 6% per annum. Considering the raise in cost of living, the claimant is entitled to interest at the rate of 7.5% per annum.

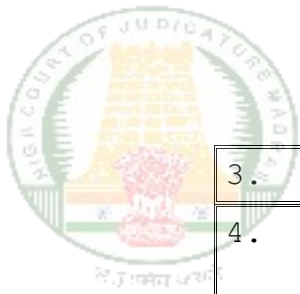
C.M.A.No.741 of 2008

22.As far as the quantum of compensation granted by the Tribunal in M.C.O.P.No.84 of 2004 is concerned, it is seen that



at the time of accident, the deceased Kulandavel @ Kunjupayan was aged 55 years, doing Agricultural and Real Estate business and was earning a sum of Rs.6,000/- per month. The claimants did not produce any document to prove the same. In the absence of any documentary evidence, the Tribunal fixed the notional income of the deceased Kulandavel @ Kunjupayan as Rs.3,000/- per month, at the rate of Rs.100/- per day. Considering the age and nature of work done by the deceased, the notional income fixed by the Tribunal is not meagre. The Tribunal failed to grant any enhancement towards future prospects. As per the judgment of the Hon'ble Apex Court reported in 2017 (2) TN MAC 609 (SC) [National Insurance Co. Ltd., Vs. Pranay Sethi and others], the claimants are entitled to 10% enhancement towards future prospects. There are four dependents of the deceased. The Tribunal though erroneously deducted a sum of Rs.850/- towards personal expenses of the deceased, without following the judgment of the Hon'ble Apex Court reported in 2017 (2) TN MAC 609 (SC) (referred to above), rightly applied the correct multiplier '11'. There are four dependents of the deceased. Hence, $1/4^{\text{th}}$ has to be deducted towards personal expenses of the deceased. Thus, after granting 10% enhancement towards future prospects, deducting $1/4^{\text{th}}$ towards personal expenses and applying multiplier '11', the amounts awarded by the Tribunal towards loss of dependency is modified to Rs.3,26,700/-{[Rs.3,000/- + Rs.300/- (10% of Rs.3,000/-)] x 12 x 11 x $\frac{3}{4}$ }. The Tribunal has excessively awarded a sum of Rs.50,000/- towards loss of consortium to the 1st claimant/wife of the deceased and Rs.50,000/- each towards loss of love and affection to the claimants 2 to 4, who are the children of the deceased. In view of excessive amount granted by the Tribunal under the heads of loss of consortium and loss of love and affection, the claimants are not entitled to any amount towards loss of estate and the amount granted towards funeral expenses is not interfered with. The amounts awarded by the Tribunal under the head, transportation is just and reasonable and hence, the same is hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	2,83,800/-	3,26,700/-	Enhanced
2.	Transportation	2,000/-	2,000/-	Confirmed



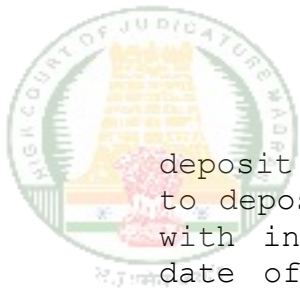
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3.	Funeral expenses	5,000/-	5,000/-	Confirmed
4.	Loss of consortium to 1 st claimant	50,000/-	50,000/-	Confirmed
5.	Loss of love and affection to claimants 2 to 4	1,50,000/-	1,50,000/-	Confirmed
	Total	4,90,800/-	5,33,700/-	Enhanced by Rs.42,900/-
	50% of compensation	2,45,400/-	-	(Rs.5,33,700 - 4,90,800/-)

The Tribunal has granted compensation along with interest at the rate of 6% per annum. Considering the raise in cost of living, the claimants are entitled to interest at the rate of 7.5% per annum.

23(i). In the result, C.M.A.No.740 of 2008 is partly allowed and the amount awarded by the Tribunal at Rs.10,000/- is enhanced to Rs.68,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The United India Insurance Company Limited is directed to deposit the award amount, now determined by this Court, along with interest and costs within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.8 of 2004. On such deposit, the claimant is permitted to withdraw the award amount determined by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. The 1st respondent/owner of the Lorry is permitted to withdraw the excess amount available in the deposit to the credit of M.C.O.P. No.8 of 2004, if any already deposited by him. It is made clear that if the claimant has already withdrawn the entire award amount, the 1st respondent/owner of the Lorry is not entitled to recover the same from the claimant. No costs.

23(ii). In the result, C.M.A.No.741 of 2008 is partly allowed and the amount awarded by the Tribunal at Rs.4,90,800/- is enhanced to Rs.5,33,700/- together with interest at the rate of 7.5% per annum from the date of petition till the date of



deposit. The United India Insurance Company Limited is directed to deposit the award amount, now determined by this Court, along with interest and costs within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.84 of 2004. On such deposit, the claimants are permitted to withdraw their respective share of the award amount as apportioned by the Tribunal, along with proportionate interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. The 1st respondent/owner of the Lorry is permitted to withdraw the excess amount available in the deposit to the credit of M.C.O.P. No.84 of 2004, if any already deposited by him. It is made clear that if the claimants have already withdrawn the entire award amount, the 1st respondent/owner of the Lorry is not entitled to recover the same from the claimants. No costs.

23(iii). In the result, C.M.A.No.4033 of 2008 filed by the United India Insurance Company Limited is dismissed and the amount awarded by the Tribunal at Rs.82,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit is confirmed. The United India Insurance Company Limited is directed to deposit the award amount, along with interest and costs within a period of six weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P. No.52 of 2006. On such deposit, the claimant is permitted to withdraw the award amount determined by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

gsa/krk

To

1.The Motor Accidents Claims Tribunal,
The Subordinate Judge,
Bhavani.



2.The Motor Accidents Claims Tribunal
The Additional District Judge,
East Tract Court-4,
Bhavani.

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+lcc to Mr.S.Arunkumar, Advocate SR.No.9162
+lcc to Mr.Ma.P.Thangavel, Advocate SR.No.9935

C.M.A.Nos.740, 741 & 4033 of 2008

VBM(CO)
CB(04/04/2022)