



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2022

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.NO.3375 OF 2021

1. Shamshath
2. Minor Nishath
3. Kathum Bee
(Minor /2nd appellant is rep by 1st appellant
next friend, guardian mother)

... Appellants/
Petitioners

Vs.

1. Rathinasamy
2. The United India Insurance Company Limited,
No.14/1-77 B, Salem Main Road,
Puduchampalli, Raman Nagar Post,
Mettur Dam - 636 403,
Salem District.

... Respondents/
Respondents

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, challenging the judgment and decree dated 25.01.2017 in MCOP No. 2119 of 2015 passed by the Motor Accident Claims Tribunal, Additional District Court and Special Court, Salem.

For Appellants : Mr.S.P.Yuaraj
For Respondents : R1 - Notice served - No appearance
R2 - Mr.D.Bhaskaran

JUDGMENT

[Judgment of the Court was delivered by K.KALYANASUNDARAM, J.]

The claimants in M.C.O.P.No.2119 of 2015 on the file of the Motor Accident Claims Tribunal (Additional District Court and



8. In the case on hand, it is not in dispute that the deceased Soukath Ali was working as a Pharmacist in the Government Hospital, Salem. The employment and the salary of the deceased have been proved by P.W.3 and Ex.P.14-Salary Certificate. Therefore, the income of the deceased has to be taken as Rs.45,576/- and the reason given by the Tribunal for reducing the salary cannot be countenanced. Hence the income of the deceased is fixed at Rs.45,576/- per month. Adding 30% towards future prospectus and after deducting Income Tax for the income of the deceased, the annual income would be Rs.6,43,790/- [(Rs.45,576/- + 30% x 12) - Rs.67,196/-]. Since the deceased died at the age of 46, the appropriate multiplier would be '13' and after deducting 1/3rd towards personal expenses of the deceased, the 'loss of dependency' is arrived at Rs.55,79,513/-. Rs.20,000/- is awarded for 'loss of consortium', but as per the decision of the Hon'ble Apex Court in the case of Magma General Insurance Company Vs. Nanuram @ Chuhru Ram and Others, the claimants are entitled for Rs.40,000/- each under the head of 'Consortium and filial consortium'. Since the claimants are granted with 'loss of consortium', 'Consortium and filial consortium', the amount awarded under the head 'loss of love and affection is hereby set aside. The amounts awarded under the heads 'transportation' and 'funeral expenses' are 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 reduced or granted
1.	Loss of dependency	20,28,000/-	55,79,513/-	enhanced
2.	Loss of consortium	20,000/-	40,000/-	enhanced
3.	Consortium and filial consortium	----	80,000/-	granted
4.	Transportation	10,000/-	10,000/-	confirmed
5.	Funeral expenses	20,000/-	20,000/-	confirmed
6.	Loss of love and affection	70,000/-	---	Set aside



WEB COPY

Total	21,48,000/-	57,29,513/- rounded off to 57,30,000/-	Enhanced by 35,82,000/-
-------	-------------	--	----------------------------

9. In view of the above, this Civil Miscellaneous Appeal is partly allowed and the amount of Rs.21,48,000/- is enhanced to Rs.57,30,000/-, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The 2nd respondent/Insurance Company 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. Out of the total award amount the 1st claimant/wife of the deceased is entitled for a sum of Rs.30,00,000/- and the minor child is entitled for a sum of Rs.20,00,000/- and the 3rd claimant/mother of the deceased is entitled for Rs.7,30,000/-. On such deposit is being made, the major claimants are permitted to withdraw their share of the award amount along with proportionate interest and costs, less the amount already withdrawn, if any. In so far as, share of the minor child, the Tribunal is directed to deposit the same in any of the nationalized bank in a fixed deposit scheme, till the minor attains majority. Till such time, the interest accrued thereon shall be withdrawn by the mother of the minor child/1st claimant, once in three months, directly from the Bank. It is made clear, the claimants are not entitled for interest during the delay period.

10. In fine, this Civil Miscellaneous Appeal is partly allowed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Jer

To

1. The Motor Accident Claims Tribunal,
Additional District Court and Special Court,
Salem.



2. The Section Officer,
V.R.Section,
Madras High Court, Chennai.

WEB COPY

+1cc to Mr.S.P.Yuaraj, Advocate, S.R.No.14101

C.M.A.No.3375 of 2021

KJ (CO)
PM/17/05/2022