

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 17.02.2022

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN**C.M.A. (MD) .Nos.90 and 91 of 2020**

WEB COPY

C.M.A. (MD) .No.90 of 2020

M/s. National Insurance Company Limited,
represented by its Manager,
74-A, Paramathi Road,
Namakkal District.

...Appellant/2nd Respondent

Vs.

1.T.Gowri
2.Minor T.Vikashini
3.Minor T.Deekshini
4.K.Pappayee
5.N.Divya

... 1 to 4 Respondent/Petitioner

... 5th Respondent/1st Respondent

minor 2nd & 3rd Resondents are represented by their mother and natual
guaridan, the 1st respondent T.Gowri.

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the
Motor Vehicles Act, 1988, against the judgment and decree made in
M.C.O.P.No.69 of 2019, dated 24.07.2019 on the file of the Motor
Accident Claims Tribunal, Additional Sessions Court, Karur.

For Appellant

: Mr.J.S.Murali

For R1 to R4

: Mr.K.Balasubramani

C.M.A. (MD) .No.91 of 2020

M/s. National Insurance Company Limited,
represented by its Manager,
74-A, Paramathi Road,
Namakkal District.

... Appellant/2nd Respondent

Vs.

Saravanan @ Saravanakumar (Died),
1.P.Pappathi
2.P.Periyasamy
3.N.Divya

... 1 & 2 Respondent/Petitioner

... 3rd Respondents/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the
Motor Vehicles Act, 1988, against the judgment and decree made in
M.C.O.P.No.70 of 2019, dated 24.07.2019 on the file of the Motor
Accident Claims Tribunal, Additional Sessions Court, Karur.

For Appellant

: Mr.J.S.Murali

For R1 to R4

: Mr.K.Balasubramani



COMMON JUDGMENT

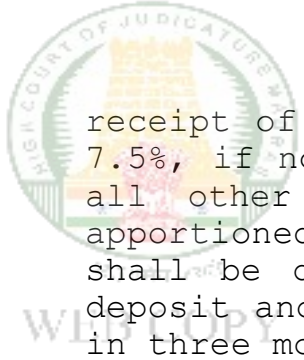
The Civil Miscellaneous Appeals have been filed by the Insurance Company challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Additional Sessions Court, Karur in M.C.O.P.Nos.69 and 70 of 2019, dated 24.07.2019.

2. The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the insured vehicle and the policy coverage of the vehicle are not in dispute. Accordingly, the finding rendered by the Tribunal is hereby confirmed.

3. On the quantum of compensation, both the parties have heard. In C.M.A.(MD).No.90 of 2020 (M.C.O.P.No.69 of 2019), wife, minor children and the mother of the deceased are the claim petitioners. At the time of accident, the deceased is aged about 39 years and said to have been carrying on agriculture and milk vending business. Therefore, following the principle of Supreme Court in the case of **Syed Sadiq vs United India Insurance Company Limited** reported in (2014) 2 SCC 735, a sum of Rs.6,500/- is fixed for the notional income of the deceased. Since there are four claimants, $\frac{1}{4}$ has to be deducted towards his personal expenses and 40% of the income has to be added towards future prospects. As the age of the deceased is 39 years, the correct multiplier is '15'. The peculiar loss sustained to the claimants is assessed as follows. (Rs.6,500/- + Rs.2,600/- (40/100) = Rs.9,100/- x 12 x 15 = Rs.16,38,000/-). The loss of love and affection for the claim petitioner is refixed at Rs.40,000/- for three persons, Rs.1,20,000/-. Further, the loss of love and affection of the claim petitioners 2 to 4 is re-fixed at Rs.1,20,000/- (Rs.40,000/- x 3) and this Court fixed a sum of Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral expenses, Rs.40,000/- towards loss of consortium for the first respondent/claimant. Accordingly, the compensation awarded by the Tribunal is reduced from Rs.21,60,000/- to Rs.18,28,000/-.

4. In C.M.A.(MD).No.91 of 2020 (M.C.O.P.No.70 of 2019), the deceased is a bachelor, aged about 30 years and said have been carrying on agriculture and milk vending business. Hence, the peculiar loss sustained to the claimants is assessed as follows. (Rs.6,500/- + Rs.2,600/- (40/100) = Rs.9,100/- x 12 x 17 - Rs.3,250/- (50%) = Rs.18,20,750/-). Further, the claimants would be entitled for Rs.15,000/- towards loss of estate, Rs.50,000/- towards love and affection, Rs.15,000/- towards funeral expenses and Rs.9,50,541/- towards medical bills. Accordingly, the compensation awarded by the Tribunal is reduced from Rs.24,58,541/- to Rs.18,28,000/-.

5. The appellant/Insurance Company is directed to deposit the entire award amount within a period of eight weeks from the date of



receipt of a copy of this order along with interest at the rate of 7.5%, if not deposited already. On such deposit, except the minors, all other claimants are permitted to withdraw their share as apportioned by the Tribunal and the share of the minor claimants shall be deposited in any one of the Nationalised Bank on fixed deposit and the guardian is permitted to withdraw the interest once in three months.

6. In the result, these Civil Miscellaneous Appeals are allowed in part to the extent indicated above. No costs.

Sd/-

Assistant Registrar (Cs-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv

To

Additional Sessions Judge,
The Motor Accident Claims Tribunal,
Karur.

Copy to

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

+1 CC to M/s.J.S.MURALI, Advocate (SR-6973[F] dated 18/02/2022)

+1 CC to M/s.J.S.MURALI, Advocate (SR-6974[F] dated 18/02/2022)

C.M.A. (MD) .Nos.90 and 91 of 2020
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SRR(CO)

KB(04.04.2022) 3P 6C