

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
20.04.2022	26.04.2022

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A(MD)No.386 of 2020

Pauldurai (died)

1.Koilraj

2.Vimala

3.Antonyraj

4.Arputharaj

5.Micheal

.. Appellants /Petitioners

Vs

1.Muthusamy

2.United India Insurance Company Ltd.

through its Branch Manager,

No.2, Bhuvaneshwari Complex,

Dr.Sankaran Road,

Namakkal - 637 001.

..Respondents/ Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 10.02.2020, passed in M.C.O.P.No.1440 of 2017 by the Motor Accident Claims Tribunal / First Additional District and Sessions Court, Tirunelveli.

For Appellants : Mr.T.Selvakumaran

For Respondent No.2 : Mr.C.Jawahar Ravindran

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award dated 10.02.2020, passed in M.C.O.P.No.1440 of 2017 by the Motor Accident Claims Tribunal / First Additional District and Sessions Court, Tirunelveli.



2.The claim petitioners are the appellants herein, seeking enhancement of compensation.

3.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

4.The factum of the accident, the manner of the accident, rash and negligence on the part of the driver of the offending vehicle which is insured with the second respondent herein are not disputed in this appeal and hence, the finding rendered by the Tribunal in this regard is hereby confirmed.

5.On the point of quantum of compensation, both the parties were heard.

6.The deceased is the wife of the first claim petitioner. The third claim petitioner is the daughter of the deceased and the claim petitioners 2, 4, 5 and 6 are the sons. They filed the claim petition in M.C.O.P.No.1440 of 2017 for the death of the deceased in the road transport accident on 05.08.2017. As per Ex.P.13, the deceased was aged about 55 years and hence, multiplier of 9 is to be adopted. Since, she is a housewife and the date of accident is on 05.08.2017, Rs.12,000/- was fixed as notional monthly income and following the decision of the Hon'ble Supreme Court in **National Insurance Co. Ltd. v. Pranay Sethi and Others** reported in **2017(16) SCC 680**, future prospects at the rate of 10% has to be added. Considering the number of claim petitioners as legal representatives of the deceased Amirthakani, 1/4th amount has to be deducted and hence, the pecuniary loss sustained by the claim petitioners is reassessed as under:

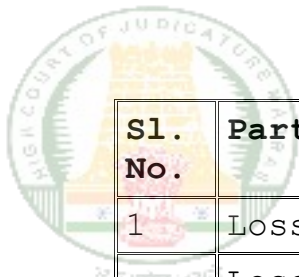
Calculation

Notional income	= Rs.12,000/-
10% Future Prospects	= Rs. 1,200/-
Total	= Rs.12,000 + Rs.1,200 = Rs.13,200/-

Loss of dependency

= Rs.13,200 X 12 X 9 - 1/4 deduction
= Rs.10,69,200/-

7.Apart from the above, the first claim petitioner, who is the husband of the deceased, is entitled to spouse consortium and accordingly, Rs.40,000/- is awarded for the same. Since the first claim petitioner died pending claim petition, the said amount shall be apportioned equally among the other claim petitioners. The claim petitioners 2 to 6 each are entitled for Rs.40,000/- totally, Rs.2,00,000/- towards parental consortium. A sum of Rs.15,000/- is awarded towards transportation. The compensation awarded towards other heads, namely, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses are confirmed. Accordingly, the award of the Tribunal in M.C.O.P.No.1440 of 2017 is modified as follows:-



Sl. No.	Particulars	Amount granted by the Tribunal	Amount granted by this Court
1.	Loss of dependency	Rs. 6,68,300/-	Rs. 10,69,200/-
2.	Loss of Consortium to the first claim petitioner (died pending claim petition)	---	Rs. 40,000/-
3.	Loss of parental consortium to the appellants 1 to 5	---	Rs. 2,00,000 /-
4.	For Transportation	---	Rs. 15,000/-
4.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
5.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
	Total	Rs. 6,98,300/-	Rs. 13,54,200/-

The compensation awarded by the Tribunal is enhanced from Rs.6,98,300/- to Rs.13,54,200/-, which shall carry interest at the rate of 7.5% per annum.

8.In the result, this Civil Miscellaneous Appeal is partly allowed. The quantum of compensation awarded by the Tribunal is enhanced from Rs.6,98,300/- to Rs.13,54,200/- which shall carry interest at the rate of 7.5% per annum. The appellants/claimants are directed to pay the Court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee. The second respondent / Insurance Company is directed to deposit the entire compensation of Rs.13,54,200/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.1440 of 2017 on the file of the Motor Accidents Claims Tribunal / First Additional District and Sessions Court, Tirunelveli within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made by the second respondent / Insurance Company, the appellants / claimants herein are at liberty to withdraw the same, as apportioned by the Tribunal, after following due process of law. No costs.

Sd/-

Assistant Registrar (CO)

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/ /2022

Sub Assistant Registrar(CS)



To

1.The First Additional District and Sessions Judge,
Motor Accidents Claims Tribunal,
Tirunelveli.

Copy to

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

+1 CC to M/s.T.SELVAKUMARAN, Advocate (SR-22320[F] dated
28/04/2022)

C.M.A(MD) No.386 of 2020
26.04.2022

RK(13/05/2022) 4P 5C