



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.04.2022

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN
C.M.A(MD).No.888 of 2017

WEB COPY

- 1.Ponupandi
- 2.Peria Krishnakumar
- 3.Sundari
- 4.Minor.Karthik

*(Minor petitioner represented through his father and next guardian
1st petitioner herein)*

...Appellants/petitioners

Vs.

- 1.Duraipandian

- 2.United India Insurance Company Limited,
Through its Branch Manager,
No.312, Rajapalayam Road,
Sankarankovil.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 18.02.2016, in M.C.O.P.No.1409 of 2014 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tirunelveli.

For Appellants	: Mr.T.Selvakumaran
For Respondents	: Mr.A.Ilango for R2
	No appearance for R1

JUDGMENT

The appellants are the claimants in MCOP.No.1409 of 2014 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tirunelveli. They have filed the above claim petition seeking compensation of Rs.15,00,000/-(Rupees Fifteen Lakhs Only), for the death of one Arasathal, in a road accident that took place on 30.10.2014.

2. The case of the appellants/claimants, is as follows:

(i) The first claimant is the husband of the deceased and the second to third claimants are the children of the deceased.

(ii) The deceased was aged about 44 years, at the time of the accident. She was working as Beedi Roller and coolie worker and was earning a sum of Rs.10,000/- per month.



(iii) On 30.10.2014, at about 12.15 p.m., the deceased was travelling in an auto bearing Registration No.TN-76-8571 belonging to the first respondent insured with the second respondent on Sankarankoil-Tirunelveli main road near Navaneethakrishnapuram in a rash and negligent manner and applied sudden brake, as a result of which, the Auto lost its control and capsized on the left side road ditch. Due to the impact, the deceased trapped inside the auto and sustained serious injuries and immediately, she was taken to Government Hospital at Sankarankoil and admitted as inpatient and thereafter, she died in the hospital itself.

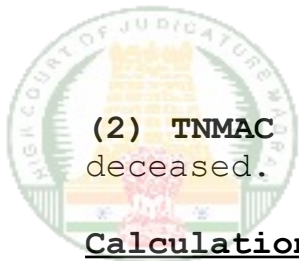
3. According to the claimants, the rash and negligent driving of the driver of the said auto was the cause of the accident and that since the said auto was insured with the United India Insurance Company Limited, both the owner and insurer of the said auto are liable to pay compensation of Rs.15,00,000/- (Rupees Fifteen Lakhs Only) to them.

4. The Tribunal, based upon the oral and documentary evidence, awarded a sum of Rs.8,67,200/- (Rupees Eight Lakhs Sixty Seven Thousand and Two Hundred only) together with interest at the rate of 9% per annum and directed the second respondent to pay the compensation to the claimants and recover the same from the first respondent. Not satisfied with the quantum of compensation awarded by the Tribunal, the claimants have preferred this appeal under Section 173 of the Motor Vehicles Act, 1988.

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

6. The question of rash and negligence is not in dispute and hence, the finding rendered by the Tribunal in that regard, is hereby confirmed.

7. On the point of quantum, both the parties are heard. After perusing the evidence of PW6 and P.W7, this Court is of the considered view that the deceased was working as a Beedi Roller and working as a Coolie. Taking note of the evidence of P.W.7 and the fact that the accident is of the year 2014, this Court is inclined to fix the monthly income of the deceased as Rs.6,000/- (Rupees Six thousand only). Since there are four persons depending on the income of the deceased, 1/4rd should be deducted towards the personal expenses of the deceased. This Court is of the opinion that the age of the deceased can be taken as '44' as per the post-mortem certificate (Ex.P3). Therefore, the proper multiplier to be adopted in the instant case is 14 as per the decision rendered in **Sarla Varma and others vs. Delhi Transport Corporation and another reported in (2009) 6 SCC 121**. As per the decision laid down in **National Insurance Co. vs Pranay sethi and others reported in 2017**



(2) TNMAC 601, 25% should be added towards future prospectus of the deceased.

Calculation:

Notional income = Rs.6,000/-
 25% Future Prospects = Rs.1,500/-
 Total = Rs.6,000/- + Rs.1,500 = Rs.7,500/-

Loss of pecuniary benefits

= Rs.7500/- x 12 x 14 x 3/4
 = Rs.9,45,000/-

8. Accordingly, the award of the Tribunal in M.C.O.P.No.1409 of 2017 is modified as follows:

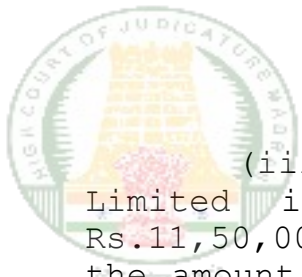
<i>Sl. No.</i>	<i>Particulars</i>	<i>Amount granted by the Tribunal</i>	<i>Amount granted by this Court</i>
1.	Loss of pecuniary benefits	Rs.7,37,200/-	Rs.9,45,000/-
2.	Loss of love and affection for the claimants	Rs.1,00,000/-	Rs.1,60,000/- (Rs.40,000 + Rs.40,000 + Rs.40,000/- + Rs.40,000/-)
3.	Transportation	Rs.5,000/-	Rs.15,000/-
4.	Funeral expenses	Rs.25,000/-	Rs.15,000/-
5.	Loss of estate	Nil	Rs.15,000/-
	Total	Rs.8,67,200/-	Rs.11,50,000/-

The compensation awarded by the Tribunal is enhanced from Rs.8,67,200/- (Rupees Eight Laksh Sixty Seven Thousand and Two Hundred only) to Rs.11,50,000/- (Rupees Eleven Lakhs and fifty Thousand only) which shall carry interest at the rate of 9% per annum.

9. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed and the quantum of compensation awarded by the Tribunal is enhanced from (Rupees Eight Laksh Sixty Seven Thousand and Two Hundred only) to Rs.11,50,000/- (Rupees Eleven Lakhs and fifty Thousand only) which shall carry interest at the rate of 9% per annum;

(ii) The appellants/claimants are directed to pay the Court fee for the enhanced compensation amount, if any and the Registry is directed to draft the decree only after the receipt of the Court fee;



(iii) The second respondent - United India Insurance Company Limited is directed to deposit the entire compensation of Rs.11,50,000/- (Rupees Eleven Lakhs and fifty Thousand only), less the amount already deposited, if any, together with interest at the rate of 9% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.1409 of 2014, on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tirunelveli, within a period of eight weeks from the date of receipt of a copy of this judgment;

(iv) On such deposit being made, the appellants 1 to 3 are permitted to withdraw their share of compensation together with accrued interest and cost. The apportionment granted by the Tribunal shall be kept intact; and

(v) The fourth appellant is a minor, and therefore, his share of compensation amount is ordered to be deposited in any one of the nationalized banks until he attains majority and the first appellant is permitted to withdraw the interest directly from the bank, once in three months in order to maintain the minor.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

tta

To

1.Motor Accidents Claims Tribunal,
Special Sub Court, Tirunelveli.

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

+1 CC to M/s.T. SELVAKUMARAN, Advocate (SR-18076[F] dated 12/04/2022)

+1 CC to M/s.A. ILANGO, Advocate (SR-18749[F] dated 13/04/2022)

C.M.A(MD).No.888 of 2017

11.04.2022

ks (CO)

TR(27.04.2022) 4P 6C