



C.M.A.No.408 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 27.02.2023	Pronounced on 16.03.2023
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.408 of 2023
and
C.M.P.No.3440 of 2023

The United India Insurance Company Limited,
Katchery Road,
Kallakurichi

...Appellant

Vs.

1.Arumugam
2.Meena

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award in Judgment and Decree dated 23.10.2018 made in M.C.O.P.No.362 of 2016 on the file of Motor Accident Claims Tribunal/ III Additional District Judge, Kallakurichi.

For Appellant : Mrs.R.Sreevidhya

For R1&R2 : Mr.G.Mohammed Aseef



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J U D G M E N T

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The Insurance Company is the appellant herein.

2. Challenging the award passed by the Tribunal the appellant/Insurance Company has filed an appeal on the quantum of compensation.

3. For the sake of convenience, the parties are referred to as per their rank before the trial Court.

4. The factum of the accident, the manner of the accident and rash and negligence driving on the part of the driver of the offending vehicle, are not disputed and hence the findings rendered by the Tribunal are hereby confirmed.

5. Heard the learned counsel for the appellant/insurance company and he would contend that on the date of the accident, the injured was two years old. The Tribunal has awarded Rs.9,75,000/- as total compensation.



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6. Following the decision of the Hon'ble Supreme Court reported in;

(i) 2016 ACJ 1873 at Page 1878 (Suraj Verma Vs. Delhi Development Authority and others), the claims tribunal has awarded Rs.9,00,000/- for the death of the minor child.

(ii) In Kishan Gopal and Ors v Lala and Ors reported in 2014(1) SCC 244, the Hon'ble Apex Court has awarded amount of Rs. 5,00,000/- with interest as compensation.

(iii) In Meena Devi v Nunu Chand Mahto and Ors. reported in AIR 2022 SC 5006, the Hon'ble Supreme Court has awarded Rs. 5,00,000/- with interest as compensation.

(iv) In Kurvan Ansari @ Kurvan Ali and Anr V Shyam Kishore Murmu and Anr dated 16.11.2021, the Hon'ble Supreme Court has awarded Rs. 4,70,000/- with interest as compensation.

(v) In Mahantesh v Netharavati and Ors., this Court has awarded Rs. 4,70,000/- with interest as compensation

7. The age of the deceased minor child in *Kishan Gopal's case* was 6 years. Whereas, in the case on hand, the age of the deceased minor child is 2 years. Therefore, I find that a sum of Rs.5 lakhs would be just and fair for the loss of death of the minor child. The award of Rs.25,000/- towards



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'funeral expenses' is on the higher side and hence a sum of Rs.15,000/- is awarded. Further the award of Rs.25,000/- each towards 'loss of love and affection' to the petitioners 1&2/parents of deceased minor child who was aged 2 years is very meagre and therefore, the same is enhanced to Rs.40,000/- each. There is no award under the heads 'transportation' and 'loss of estate'. Therefore, a sum of Rs.15,000/- each is awarded under the said heads. The compensation now re-assessed is as follows:-

S. No.	Head	Awarded by the tribunal	Awarded by this Court
1.	For the loss of death of minor child	Rs.9,00,000	Rs.5,00,000/-
2.	Loss of Love and affection	Rs.50,000/-	Rs. 80,000/- (40,000 x 2)
3.	Funeral expenses	Rs.25,000/-	Rs. 15,000/-
4.	Loss of estate	--	Rs. 15,000/-
5.	Transportation	-	Rs. 15,000/-
	Total	Rs.9,75,000/-	Rs. 6,25,000/-

In total, the claimants are entitled to a sum of Rs.6,25,000/- (Rupees Six Lakhs and twenty five thousand only) as against Rs.9,25,000/- awarded by the Tribunal. Interest at the rate of 7.5% per annum fixed by the Tribunal is also confirmed.



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9. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, reducing the award amount from Rs.9,75,000/- to Rs.6,25,000/- to the extent indicated above. Consequently, connected C.M.P is closed.

(ii) the 2nd Respondent/insurance company is directed to deposit the modified award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, all the claimants/appellants are permitted to withdraw their entire share in the reduced award amount with proportionate accrued interest and costs, as per the ratio of apportionment made by the Tribunal, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) On satisfaction of the award excess amount if any shall be refunded to the appellant/Insurance Company.

(v) There shall be no order as to costs.

16.03.2023

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Index : Yes/No

Internet : Yes/No

Neutral Citation:Yes/No

Speaking Order: Yes/no



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To

1. The Motor Accident Claims Tribunal/
III Additional District Judge, Kallakurichi.
2. The Section Officer,
V.R.Section, High Court of Madras, Chennai.



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RMT.TEEKAA RAMAN,J.

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Judgment made in
C.M.A.No.408 of 2023 and
C.M.P.No.3440 of 2023

Dated:16.03.2023