



CMA.No.2026 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

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The Oriental Insurance Company Limited
by its Branch Manager, Mayiladuthurai

Appellant

Vs

1. Anjammal
2. Kasthuri
3. Pasupathi
4. Prema
5. Usha
6. K.A.Kalam

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 07.04.2015, made in OP.No.392 of 2012, by the Sub Court (MACT) Mannargudi.

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.D.Lakshmipathy-RR1 to 5
6th Respondent-Died

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, against the judgement and decree, 07.04.2015, made in OP.No.392 of 2012, by the Sub Court (MACT) Mannargudi.
2. The Respondents 1 to 5, who are the wife, daughters and son of the deceased, namely, Sadhasivam, have filed the claim petition before the



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- Tribunal, seeking a compensation of Rs.10,00,000/- on various heads, for the death of the deceased, who died in a motor road accident, which took place on 11.02.2012. The claim petition was resisted, on various grounds, by the Appellant Insurance Company, by filing a counter. The 1st Respondent, owner of the offending vehicle remained exparte. On the side of the claimants, PW.1 and PW.2 were examined and Ex.P1 to Ex.P4 were marked. On the side of the Insurance Company, RW.1 was examined and Ex.R1 was marked.
3. Finding that the deceased died in the alleged motor road accident due to the rash and negligent driving of the driver of the offending vehicle, belonging to the 6th Respondent, the Tribunal has awarded a total compensation of Rs.8,26,000/- with interest at 7.5% p.a. from the date of the claim petition till the date of realization, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Income (Rs.3500 x 12 x 13)	546000.00
2	Funeral Expenses	20000.00
3	Loss of Consortium and Love and Affection	250000.00
4	Transportation Expenses	10000.00
Total Compensation		826000.00

- Aggrieved by the quantum of compensation, this appeal has been filed by the Insurance Company.
4. This Court heard the learned counsel on either side, considered their submissions and also perused the entire materials placed on record.
5. Since there is no quarrel over the negligence aspect and the dispute is only with regard to the quantum of compensation, the finding of the Tribunal with



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respect to the negligence aspect is confirmed and also, it is not necessary to narrate the entire facts in detail in respect of the accident.

6. According to the learned counsel for the Appellant, the Tribunal failed to properly arrive at the age of the deceased and consequently, the multiplier of 13 adopted by the Tribunal is not proper and the loss of income arrived by the Tribunal is on the higher side. On the other hand, according to the learned counsel for the Respondents 1 to 5, the compensation awarded by the Tribunal is proper and correct.
7. In the absence of evidence to show the monthly income of the deceased, the notional monthly income of the deceased can be fixed at Rs.6000/- and after deducting 1/3rd towards his personal income, the monthly loss of income would come to Rs.4,000/-. But, as per the Ration Card, the age of the deceased is 65 years old. However, the Tribunal applied the multiplier of 13, which is not correct and the proper multiplier is 5. Thus, the total loss of income would be Rs.2,40,000/- (Rs.4000 x 12 x 5). Towards the loss of consortium for the wife of the deceased, a sum of Rs.40,000/- is hereby awarded. For the loss of love and affection for each of the daughters and son, a sum of Rs.40,000/- each (Rs.40,000 x 4 - Rs.1,60,000) is awarded. Further, a sum of Rs.15,000/- for loss of estate is awarded and the compensation of Rs.20,000/- awarded towards funeral expenses by the Tribunal is reduced to Rs.15,000/-. The compensation of Rs.10,000/-



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towards transportation expenses awarded by the Tribunal is retained. In all, the claimants are entitled to a total compensation of Rs.4,80,000/- with interest at 7.5% p.a. from the date of the petition till the date of realisation.

8. In the result, this Civil Miscellaneous Appeal is partly allowed. In all, the claimants are entitled to a total compensation of Rs.4,80,000/- (Rupees four lakhs eighty thousand only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Income (Rs.4000 x 12 x 5)	240000.00
2	Loss of Consortium	40000.00
3	Loss of Love and Affection	160000.00
4	Loss of Estate	15000.00
5	Funeral Expenses	15000.00
6	Transportation Expenses	10000.00
Total Compensation		480000.00

The Appellant Insurance Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already, deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants 1 to 5 are entitled to withdraw a sum of Rs.2,40,000/-, Rs.60,000/-, Rs.60,000/-, Rs.60,000/- and Rs.60,000/- each, with proportionate interest, by filing proper application. No costs.

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Index:Yes/No

Web:Yes/No

Speaking/Non Speaking



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A.A.NAKKIRAN, J.

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To

1. The Sub Court (MACT) Mannargudi
2. The Record Keeper, VR Section, High Court, Madras

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