



C.M.A.No.2731 of 2019

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 09.11.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**C.M.A.No.2731 of 2019**

1.Sumathi  
2.Minor.Rajasundary  
3.Minor.Rajakumari  
4.Minor.Rajakumaran  
(Minor petitioners 2 to 4  
Rep. by their next friend Mother,  
the 1<sup>st</sup> petitioner herein) ... Appellants

**Vs.**

1.Vaithiswaran  
2.Sriram General Insurance Company Ltd.,  
Represented by its Branch Manager,  
Having his office at  
No.27, 100 Feet Road,  
Sundararaja Nagar, Mudaliarpet,  
Puducherry – 605 004. ... Respondents

**Prayer:**

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 09.08.2018 in M.A.C.T.O.P.No.49 of 2017 on the file of the Motor Accidents Claims Tribunal (District Court) at Karaikal in so far as it relates to the quantum of compensation.

For Appellants : Ms.G.Lavanya  
for M/s.T.Saikrishnan  
For Respondents : Mr.S.Dhakshnamoorthy for R2



C.M.A.No.2731 of 2019

## J U D G M E N T

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This appeal has been filed by the appellants/ claimants challenging the award passed in M.C.O.P.No.49 of 2017 dated 09.08.2018 on the file of the Motor Accidents Claims Tribunal (District Court) at Karaikal.

2.The brief facts of the case is that on 16.08.2016 at about 11.00 p.m., the deceased Ramachandran was walking at Singaravelar Salai, Keezha Kasakudi near Emerald Beach. At that time, the first respondent drove the motorcycle bearing Registration No.PY-02/Q-1216 in the same direction in a rash and negligent manner and hit on the backside of the deceased Ramachandran, due to which, the deceased died on the spot.

3.Thereafter, the wife and children of the deceased Ramachandran/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.30 Lakhs as compensation. After adjudication, the Tribunal awarded a sum of Rs.12,81,600/- as compensation along with interest at the rate of 7.5% per annum from the date of petition till the date of realisation with costs. Aggrieved by the same, the claimants have preferred this



C.M.A.No.2731 of 2019

appeal seeking enhancement in compensation.

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4.The learned counsel appearing for the appellants submitted that the appellants have filed this appeal questioning the quantum of compensation. The learned counsel further submitted that the Hon'ble Apex Court in Syed Sadiq case fixed Rs.6,500/- as the notional income of the vegetable vendor. In the present case, the deceased was employed as Head Mason and he earned atleast Rs.500/- per day which would be more than Rs.50,000/- per month, however, the Tribunal has fixed only a sum of Rs.6,500/- as the notional monthly income of the deceased and awarded compensation, which is very meagre. Hence, the appellants are entitled for enhancement in compensation.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the amount awarded by the Tribunal is just and reasonable and warrants no interference.

6.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the second respondent and perused the materials available on record.



C.M.A.No.2731 of 2019

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7. Admittedly on 16.08.2016 at about 11.00 p.m., the deceased Ramachandran was walking at Singaravelar Salai, Keezha Kasakudi near Emerald Beach. At that time, the first respondent drove the motorcycle in a rash and negligent manner and hit on the backside of the deceased Ramachandran, due to which, the deceased died on the spot.

8. The accident and the manner in which the accident happened are not disputed. The only dispute is with regard to the quantum of compensation awarded by the Tribunal.

9. The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.11,46,600/- for loss of income, Rs.75,000/- for love and affection for claimants 2 to 4, Rs.15,000/- for funeral expenses, Rs.5,000/- for transport expenses, Rs.40,000/- for consortium and arrived at a total compensation of Rs.12,81,600/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realisation.

10. The Hon'ble Apex Court in Syed Sadiq case fixed Rs.6,500/-



C.M.A.No.2731 of 2019

as the notional income of the vegetable vendor in the year 2008. In the present case, the accident happened during the year 2016 and the claimants claim that the deceased was working as Head Mason. Hence, this Court fix the monthly income of the deceased as Rs.10,000/-. The Tribunal has rightly deducted  $\frac{1}{4}$  towards his personal expenses. Hence, after deducting  $\frac{1}{4}$  towards his personal expenses, the notional monthly income of the deceased comes to Rs.7,500/-. The Tribunal has awarded 40% of the income towards future prospects. The deceased was aged 44 years at the time of death. As per the decision of the Hon'ble Apex Court reported in MANU/SC/1366/2017 [National Insurance Company Limited Vs. Pranay Sethi and others], only 25% of the income has to be awarded for the deceased aged 44 years. Hence, this Court reduce the percentage of future prospects from 40% to 25%. The Tribunal has rightly applied the multiplier 14. Hence, the actual loss of income works out to Rs.15,75,000/- [Rs.7,500/- + Rs.1,875/- (25% of Rs.7,500/-) = Rs.9,375/- . Rs.9,375/- X 12 X 14 = Rs.15,75,000/-].

11.This Court is of the opinion that some amount has to be awarded for loss of estate. Accordingly, this Court awards a sum of Rs.15,000/- for loss of estate. The amount awarded under the head



C.M.A.No.2731 of 2019

love and affection for claimants 2 to 4, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded for love and affection for claimants 2 to 4 is enhanced to Rs.1,20,000/- (Rs.40,000/- X 3) from Rs.75,000/-. The amount awarded under the heads funeral expenses and consortium, in the opinion of this Court is just and reasonable and the same are confirmed. The amount awarded under the head transport expenses, in the opinion of this Court is not necessary and the same is deleted.

12.Accordingly, the compensation amount is re-assessed as follows:

| <b>S.No.</b> | <b>Description</b> | <b>Amount Awarded by the Tribunal</b> | <b>Amount Awarded by this Court</b> |
|--------------|--------------------|---------------------------------------|-------------------------------------|
| 1.           | Loss of income     | Rs.11,46,600/-                        | Rs.15,75,000/-                      |
| 2.           | Funeral Expenses   | Rs. 15,000/-                          | Rs. 15,000/-                        |
| 3.           | Love and affection | Rs. 75,000/-                          | Rs. 1,20,000/-                      |
| 4.           | Transport expenses | Rs. 5,000/-                           | ---                                 |
| 5.           | Consortium         | Rs. 40,000/-                          | Rs. 40,000/-                        |
| 6.           | Loss of estate     | ---                                   | Rs. 15,000/-                        |
|              | Total              | Rs.12,81,600/-                        | Rs.17,65,000/-                      |

13.The claimants are entitled to total compensation of Rs.17,65,000/- along with interest at the rate of 7.5% p.a. from the



C.M.A.No.2731 of 2019

date of petition till the date of realisation.

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14.The civil miscellaneous appeal is allowed. The award made in M.C.O.P.No.49 of 2017 dated 09.08.2018 by the Motor Accidents Claims Tribunal (District Court) at Karaikal, is modified to the above extent.

15.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the first appellant/ first claimant is permitted to withdraw her share as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The claimants/ appellants 2, 3 and 4 are permitted to withdraw their respective share as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to their majority. If the claimants/ appellants 2, 3 and 4 are still minors, their shares shall be kept in an



C.M.A.No.2731 of 2019

interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until they attain majority and the interest derived from out of the said share of the minors shall be paid to the first claimant/ mother every quarter to be utilized for the welfare of the said minors.

16.The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal (District Court) at Karaikal, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

17.The civil miscellaneous appeal is allowed. No costs.

**09.11.2023**

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Speaking Order/ Non Speaking Order  
Index: Yes/ No  
Internet: Yes/ No

To

1.The Motor Accidents Claims Tribunal (District Court) at Karaikal.

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C.M.A.No.2731 of 2019

**M.DHANDAPANI,J.**  
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**C.M.A.No.2731 of 2019**

**09.11.2023**