



C.M.A.No.377 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 06.07.2023**

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

**C.M.A.No.377 of 2018**

1. Sangeetha
2. Sasikumar
3. Sabitha
4. Rajammal
5. Rathinam

... Appellants

VS.

1. Murugan
2. The Oriental Insurance Co. Ltd.  
Kumar Complex, 1<sup>st</sup> Floor,  
146, West Car Street,  
Tiruchengode & Tk., Namakkal District

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree passed in M.A.C.T.O.P.No.179 of 2011 on 17.08.2017 on the file of the Motor Accidents Claims Tribunal, Sub Court, Sankari.

For Appellants : Mr.T.S.Arthanareeswaran

For Respondents : Mr.K.Vinod for R2  
R1-Exparte



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## **JUDGMENT**

Aggrieved by the Judgment and decree in M.A.C.T.O.P. No.179 of 2011 dated 17.08.2017, passed by the Motor Accident Claims Tribunal/Sub Court, Sankari, the legal heirs of the deceased Subramani, namely, the children, wife and mother, have preferred the Civil Miscellaneous Appeal, for enhancement of compensation.

2. The claim petition was filed by the claimants under Section 166 of the Motor Vehicles Act read with Rule 3 of Tamil Nadu Motor Vehicle Accident Claims Tribunal Rules, claiming a compensation of Rs.10,00,000/- for the death of Subramani, who lost his life on account of a road accident that occurred on 16.08.2010.

3. The Tribunal, after hearing the arguments of both sides and upon considering the oral and documentary evidence, has passed an award for an amount of Rs.18,86,000/- with interest at 7.5% from the date of filing of the petition till the date of deposit.



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4. The learned counsel would vehemently argue that the deceased who was aged 45 years, died due to the accident, leaving behind his children, wife and mother. The notional income was fixed as Rs.8,000/- and 30% future prospects was added and the income was calculated at Rs.10,400/- per month which is on the lower side.

5. Per contra, the learned counsel for the 2<sup>nd</sup> respondent/insurance company would strenuously contend that the amount awarded by the Tribunal is in order and prayed for dismissal of the appeal.

6. Heard the rival contentions made by the learned counsels of both sides and perused the entire materials on record.

7. It is the evidence of the P.W.2 that on 16.08.2010, at about 8 p.m., while the deceased Subramani was riding his cycle along Tiruchengode-Bokkampalayam Road in the extreme left side, near Goundampalayam Mariamman Temple, a motor cycle bearing Reg.No.TN-34-K4649, which came in a great speed and rash and negligent manner, hit the cycle of the said Subramani and due to the said impact, he succumbed to head and other injuries, which is not in dispute.



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8. The deceased was stated to be a Weaver by profession. To substantiate the age of the deceased, no documentary proof was marked. Therefore, relying upon the post-mortem/Ex.P.4, the age of the said Subramani is fixed as 45 years.

9. As regards the income of the deceased, it has been stated that he was earning Rs.10,000/- per month as a Weaver. So, this Court deems it fit to fix the monthly income of the deceased at **Rs.8000/-**

10. As regards the future prospects, the Hon'ble Supreme Court has standardized the details for various age group of persons, to be added with income, in ***National Insurance Co. Ltd. Vs. Pranay Sethi reported in (2017) 2 TN MAC 609 (SC)***, wherein, it has been held that for the persons who are aged between 40 to 50 years and for persons who are self employed or on a fixed salary, 25% of the income to be added as future prospects while computing the monthly income. Therefore, monthly income is calculated as **Rs.10,000/- (Rs.8000/-+25%=10,000/-)**.

11. The relevant multiplicand to be adopted, as per the judgment of the Hon'ble Supreme Court in the case of ***Sarla Verma & Others Vs. Delhi Transport Corporation*** reported in ***2009 (2) TN MAC 1 (SC)***, for the age group of persons between 41 to 45, is **14**.



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12. As regards deduction for personal and living expenses in the above said case, it has been standardized as  $1/4^{\text{th}}$ , if the number of family members is 4 to 6. Therefore, for loss of income, the following formula emerges-Rs.10000- $1/4$ =Rs.7500x12x14=Rs.12,60,000/-.

13. The amount of Rs.25,000/- granted by the Tribunal for funeral expenses, is reduced to Rs.15,000/-. A sum of Rs.15,000/- is granted for the loss of estate. As regards the other heads, the amounts awarded by the Tribunal appears to be reasonable and hence, the same need not be interfered with. Therefore, the compensation awarded by the Tribunal is reworked as tabulated below:

| <b>Sl. No.</b> | <b>Description</b>                            | <b>Amount awarded by Tribunal</b> | <b>Amount awarded by this Court</b> | <b>Award confirmed or enhanced or granted or reduced</b> |
|----------------|-----------------------------------------------|-----------------------------------|-------------------------------------|----------------------------------------------------------|
| 1              | Loss of dependency                            | Rs.13,11,000/-                    | Rs.12,60,000/-                      | <b>Reduced</b>                                           |
| 2              | Loss of consortium                            | Rs.1,00,000/-                     | Rs.1,00,000/-                       | <b>Confirmed</b>                                         |
| 3.             | For love and affection (for claimants 1 to 5) | Rs.4,50,000/-                     | Rs.4,50,000/-                       | <b>Confirmed</b>                                         |



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| <i>Sl. No.</i> | <i>Description</i> | <i>Amount awarded by Tribunal</i> | <i>Amount awarded by this Court</i> | <i>Award confirmed or enhanced or granted or reduced</i> |
|----------------|--------------------|-----------------------------------|-------------------------------------|----------------------------------------------------------|
| 4              | Funeral expenses   | Rs.25,000/-                       | Rs.15,000/-                         | Reduced                                                  |
| 5              | Loss of estate     | ---                               | Rs.15,000/-                         | Awarded                                                  |
|                | Total              | Rs.18,86,000/-                    | <b>Rs.18,40,000/-</b>               |                                                          |

14. Thus, the compensation awarded by the Tribunal is reduced from **Rs.18,86,000/- to Rs.18,40,000/-** which would carry interest at 7.5% from the date of filing of the petition till the date of deposit.

15. In the result,

(i) The Civil Miscellaneous Appeal is **dismissed by reducing a sum of Rs.46,000/-**. No costs;

(ii) The compensation awarded by the Tribunal is reduced from **Rs.18,86,000/- to Rs.18,40,000/-** ;

(iii) The 2<sup>nd</sup> respondent / Insurance Company is directed to deposit the reduced compensation amount i.e., **Rs.18,40,000/-** (less the amount already deposited if any) with interest at 7.5% from the date of filing of the petition till the date of deposit, to the credit of M.A.C.T.O.P. No.179 of



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2011 on the file of the Motor Accident Claims Tribunal/Sub Court, Sankari,  
within a period of eight weeks from the date of receipt of a copy of this  
Judgment; and

(iv) On such deposit being made, the appellants / claimants are at  
liberty to withdraw the same on filing of cheque petition.

06.07.2023

Index : Yes/No  
Speaking / Non-speaking order  
ksa-2

To:

1. The Motor Accident Claims Tribunal/Sub Court, Sankari,
2. The Section Officer,  
V.R.Section,  
High Court of Madras,  
Chennai.



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**R.KALAIMATHI, J.,**

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**06.07.2023**