



CMA.No.2474 of 2023

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

**DATED: 24.11.2023**

**CORAM: JUSTICE N.SESHASAYEE**

**CMA.No.2474 of 2023**

1.P.Selvarani  
2.P.Bharathy  
3.P.Bharath  
4.Minor P.Sachin  
(Minor petitioner rep.by his guardian,  
next friend, mother Selvarani - 1<sup>st</sup> petitioner)

... Appellants

-Vs-

1.P.Ramesh  
2.The Chief Manager,  
Cholamandalam MS General,  
Insurance Company Limited,  
II Floor, Shaw Wallace Building,  
154, Thambu Chetty Street,  
Parry's Corner,  
Chennai – 600 001.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V.Act, 1988, against the Judgment and Decree in MCOP.No.466 of 2019 dt.09.01.2023 on the file of the Motor Accident claims Tribunal (Sub Judge, Panruti).

For Appellant : Mrs.Ramya V.Rao  
For R2 : Mrs.R.Sreevidhya



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## **JUDGMENT**

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In a road accident, that took place on 11.09.2019, 45 year old Pazhanivel died. The accident occasioned when an auto-rickshaw bearing Regn.No.TN 32 AJ 9742 belonging to the first respondent and insured with the second respondent dashed against the motorcycle bearing bearing Regn.No.PY 01 R 9323, which the victim was riding at the relevant time. Seeking compensation, the dependents of the victim of the accident approached the Motor Accident Claims Tribunal with MCOP.No.466 of 2019.

2.Pazhanivel was a Mason by avocation. The Tribunal has fixed his monthly income notionally at Rs.9,000/-. Providing for 25% towards future prospects of increase in income and applying 14 as the multiplier and deducting 1/3<sup>rd</sup> towards the personal expenditure of the victim, the Tribunal arrived at a net value of compensation under the head of 'loss of dependency' at Rs.12,60,000/-. After providing for other conventional heads of compensation, the Tribunal granted Rs.13,86,500/-.



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3.This is now under challenge at the instance of the claimants on three grounds; a) that the notional income was unrealistically fixed; and b) when there are four claimants as dependents, the Tribunal ought to have deducted  $1/4^{\text{th}}$  and not  $1/3^{\text{rd}}$  and c) that the compensation was not granted under the head 'loss of estate'.

4.Heard both sides and perused the records.

5.This Court considers that it would be appropriate to fix the notional monthly income of the victim at Rs.12,500/-. Adding another 25% towards future prospects of increase in income and applying 14 as the multiplier and deducting  $1/4^{\text{th}}$  instead of  $1/3^{\text{rd}}$ , the net value of compensation on the head 'loss of dependency' will be Rs.19,68,750/-. So far as loss of love and affection for the children are concerned, it must be Rs.44,000/- for each of the children, were the Tribunal has given only half of it. Towards loss of estate, another Rs.16,500/- is awarded. The Award now passed is as below;



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| Sl. No | Description                                           | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs) | Award confirmed or enhanced or granted |
|--------|-------------------------------------------------------|---------------------------------|-----------------------------------|----------------------------------------|
| 1.     | Loss of dependency                                    | 12,60,000/-                     | 19,68,750/-                       | Enhanced                               |
| 2.     | Loss of Love and affection for the wife of the victim | 44,000/-                        | 44,000/-                          | Confirmed                              |
| 3.     | Loss of Love and affection for the appellants 2 to 4  | 66,000                          | 1,32,000/-                        | Enhanced                               |
| 4.     | Funeral Expenses                                      | 16,500/-                        | 16,500/-                          | Confirmed                              |
| 5.     | Loss of Estate                                        | -                               | 16,500/-                          | -                                      |
|        | <b>Grand Total</b>                                    | <b>13,86,500/-</b>              | <b>21,77,250/-</b>                | Enhanced by 7,91,250/-                 |

6.To conclude this appeal is allowed and the compensation is enhanced from Rs.13,86,500/- to Rs.21,77,250/-. The learned counsel for the second respondent/insurance company informed the Court that the entire compensation as awarded by the Tribunal has already been deposited. The Insurance company is now required to deposit the differential sum with interest at 7.5%, within a period of six (6) weeks from the date of receipt of a copy of this order. The enhanced portion of the compensation



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amount is now directed to be apportioned equally between the three children of the victim. Further, the appellants 1 to 3 are permitted to withdraw the award amount along with proportionate interest and costs, less the amount if any, already withdrawn and as far as the compensation amount pertaining to the fourth appellant viz., Minor P.Sachin is concerned, it is directed to be deposited in a nationalised Bank in the interest bearing Fixed Deposit till the minor attains the age of majority and the mother of the minor viz., P.Selvarani is permitted to withdraw the accrued interest on the deposits of the minor once in six months. The appellants are directed to pay the necessary Court Fee, if any, on the enhanced award amounts. No costs.

24.11.2023

Tsg

To

- 1.The Motor Accident claims Tribunal  
(Sub Judge, Panruti).
- 2.The Section Officer,  
V.R.Section, High Court, Madras.



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**N.SESHASAYEE, J.,**

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