



C.M.A.Nos.3426 to 3429 of 2019

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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 21.02.2023

CORAM:

THE HONOURABLE Mr. JUSTICE A.A.NAKKIRAN

C.M.A.Nos.3426 to 3429 of 2019

C.M.A.Nos.3426 of 2019:

1.Shaik Babajan

2.Minor Shaik Misba

3.Minor Shaik Zaiba

(Minor petitioners 2 and 3 are represented
by their father and next friend

Mr.Shaik Babajan ... Appellants/Petitioners

Vs.

1.P.Ravikumar

2.The Oriental Insurance Company Limited,

Oriental House, II Floor,

Old No.115, New No.216,

Prakasam Road,

Broadway,

Chennai - 600 108.

... Respondents/Respondents



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C.M.A.Nos.3427 of 2019:

Syed Ameer ... Appellant/Petitioner

Vs.

1.P.Ravikumar

2.The Oriental Insurance Company Limited,
Oriental House, II Floor,
Old No.115, New No.216,
Prakasam Road,
Broadway,
Chennai – 600 108.

... Respondents/Respondents

C.M.A.No.3428 of 2019:

1.Shajahan
2.Shaik Suhel Pasha
3.Simran ... Appellants/Petitioners

Vs.

1.P.Ravikumar

2.The Oriental Insurance Company Limited,
Oriental House, II Floor,
Old No.115, New No.216,
Prakasam Road,
Broadway,
Chennai – 600 108.

... Respondents/Respondents



C.M.A.Nos.3426 to 3429 of 2019

C.M.A.No.3429 of 2019:

1.Mrs.Syed Jakeera
2.Minor Shaik Umme Faiza
3.Minor Shaik Umme Ferhen
(Minor petitioners 2 and 3 are represented
by their mother and next friend
Mrs.Syed Jakeera ... Appellants/Petitioners

Vs.

1.P.Ravikumar
2.The Oriental Insurance Company Limited,
Oriental House, II Floor,
Old No.115, New No.216,
Prakasam Road,
Broadway,
Chennai – 600 108. ... Respondents/Respondents

Prayer in C.M.A.Nos.3426 of 2019: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 26.11.2018 in M.C.O.P.No.4643 of 2016 on the file of the learned Special Subordinate Judge No.I, Motor Accidents Claims Tribunal, Chennai.



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Prayer in C.M.A.No.3427 of 2019: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 26.11.2018 in M.C.O.P.No.4645 of 2016 on the file of the learned Special Subordinate Judge No.I, Motor Accidents Claims Tribunal, Chennai.

Prayer in C.M.A.No.3428 of 2019: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 26.11.2018 in M.C.O.P.No.4653 of 2016 on the file of the learned Special Subordinate Judge No.I, Motor Accidents Claims Tribunal, Chennai.

Prayer in C.M.A.No.3429 of 2019: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 26.11.2018 in M.C.O.P.No.4644 of 2016 on the file of the learned Special Subordinate Judge No.I, Motor Accidents Claims Tribunal, Chennai.

For Appellants : Mr.K.Varadha Kamaraj
in all appeals

For Respondents: Mr.D.Bhaskaran for R2
in all appeals



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COMMON JUDGMENT

The appellants have filed the above appeals aggrieved by the very meagre compensation that has been granted by the learned Special Subordinate Judge No.I, Motor Accidents Claims Tribunal, Chennai, in M.C.O.P.Nos.4643, 4645, 4653 and 4644 of 2011.

2.It is the case of the claimants that on 09.07.2016 about 15.45 hours, while the claimant in M.C.O.P.No.4644 of 2016 was driving his auto rickshaw, bearing Registration No.AP 03 TA 4215 with other deceased in M.C.O.P.Nos.4643, 4645 and 4653 of 2016 as inmates, proceeding at the left side of Madanapalli to Tirupathi Road near JNTU College, Kalikiri Mandal, Chitoor District, a TATA Sumo, bearing Registration No.AP 07 AV 0748 driven by its driver, in a rash and negligent manner and endangering the public safety, came from the opposite direction and hit the said auto rickshaw.



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Due to the accident, the deceased in all the Original Petitions sustained grievous fatal injuries and died. The accident occurred only due to the rash and negligent driving of the driver of the TATA Sumo. Hence, the 1st respondent as the owner of the said TATA Sumo and the 2nd respondent as the insurer of the same are liable to pay compensation to the claimants.

3.Before the Tribunal, the 1st respondent was called absent and set *ex parte* in all the Claim Petitions. A common counter has been filed by the 2nd respondent Insurance Company. In their counter, they submitted that the accident has occurred only due to the negligent on the part of the driver of the auto rickshaw, namely, Fazil Ahamed. The deceased Fazil Ahamed carried more numbers of persons than permitted drove the vehicle in a rash and negligent manner and violated the permit conditions and caused the



accident. Therefore, the owner and the Insurance Company of the said auto rickshaw are absolutely necessary parties for proper adjudication. The 2nd respondent denied the age, avocation and the income of the deceased persons. The claimants have to prove whether they are the dependants of the deceased persons. The amount claimed under various heads is imaginary and unsustainable.

4.The Tribunal after considering the evidence on record came to a conclusion that the accident was occurred due to the rash and negligent driving of the driver of the 1st respondent's vehicle. Ultimately, the Tribunal has awarded compensation with interest @ 7.5% per annum from the date of petition till the date of realisation to the claimants payable by the 2nd respondent. Challenging the same, the claimants are before this Court.



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5.The learned counsel appearing for the appellants /claimants would submit that the Tribunal has erred in fixing the income of the deceased persons. He would submit that the accident was occurred due to the rash and negligent driving of the driver of the 1st respondent's vehicle. He would submit that very low amounts have been granted under various heads and therefore, the Award has to be enhanced.

6.*Per contra*, the learned counsel appearing for the 2nd respondent would submit that this is a very reasonable award and does not warrant a reconsideration.

7.Heard the learned counsel appearing on either side and perused the papers.



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C.M.A.No.3426 of 2019:

8.The 1st petitioner is the husband and the minors 2 and 3 petitioners are the daughters of the deceased Shaik Dilshad. The deceased was aged 38 years at the time of death. She was doing saree business and earning a monthly income of Rs.20,000/-. The Tribunal has granted a sum of Rs.13,51,000/- as compensation for the death of the deceased Shaik Dilshad. Considering the avocation of the deceased, the notional income can be enhanced to a sum of Rs.10,000/- per month to which future prospects of 40% is to be added. Therefore, the monthly income would come to Rs.14,000/-. The annual income would work out to a sum of Rs.1,68,000/-(Rs.14,000/- x 12 = Rs.1,68,000/-). After deducting 1/3rd amount towards her personal expenses, the annual contribution to the family would be a sum of Rs.1,12,000/-. Considering her age, the appropriate multiplier to be adopted is 15. Therefore, the loss



of dependency to the family would be a sum of Rs.16,80,000/-

(Rs.1,12,000/- x 15 = Rs.16,80,000/-). The appellants 2 and

3/claimants 2 and 3 are entitled to a sum of Rs.40,000/- each

towards loss of love and affection. Therefore, a sum of

Rs.80,000/- is granted under the head of loss of love and

affection to the children. In all other respects, the Award

remains unaltered. Therefore, taking into consideration the

above aspects, the modified amount is as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of dependency	Rs.11,76,000/-	Rs.16,80,000/-	Enhanced
2.	Loss of consortium	Rs.40,000/-	Rs.40,000/-	Confirmed
3.	Loss of love and affection to the two children (Rs.40,000/- x 2)	Rs.1,00,000/-	Rs.80,000/-	Reduced
4.	Loss of estate	Rs.15,000/-	Rs.15,000/-	Confirmed
5.	Transportation	Rs.5,000/-	Rs.5,000/-	Confirmed
6.	Funeral expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
	TOTAL	Rs.13,51,000/-	Rs.18,35,000/-	



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9. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The 2nd respondent/Insurance Company is directed to deposit the entire compensation amount of Rs.18,35,000/- with interest @7.5% per annum, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.4643 of 2016 on the file of the learned Special Subordinate Judge No.I, Motor Accidents Claims Tribunal, Chennai, within a period of four weeks from the date of receipt of a copy of this order, if not deposited earlier.

10. Out of the total compensation, the 1st petitioner, being the husband of the deceased, is entitled to Rs.8,00,000/- (Rupees eight lakhs only) and the 2nd and 3rd petitioners, being the minor daughters of the deceased are entitled to Rs.5,35,000/- (Rupees five lakh thirty five thousand only) and



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Rs.5,00,000/- (Rupees five lakh only), respectively. On such deposit, the 1st petitioner is permitted to withdraw his share amount with proportionate accrued interest and costs by making necessary applications. The share of the minors/2nd and 3rd petitioners shall be deposited in any one of the Nationalised Banks in fixed deposit under the reinvestment scheme initially for a period of three years. The interest accruing on the share of the minors/2nd and 3rd petitioners shall be paid to the father of the minors, once in three months, till they attain majority.

C.M.A.No.3427 of 2019:

11.The petitioner is the husband of the deceased Shaik Musarath Jahan. The deceased was aged 26 years at the time of death. She was working as a Tailor and earning a monthly income of Rs.18,000/- per month. The Tribunal has granted a



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sum of Rs.16,14,200/- as compensation for the death of the deceased Shaik Musarath Jahan. Considering the avocation of the deceased, the notional income can be enhanced to a sum of Rs.9,000/- per month to which future prospects of 40% is to be added. Therefore, the monthly income would come to Rs.12,600/-. The annual income would work out to a sum of Rs.1,51,200/- ($\text{Rs.12,600/-} \times 12 = \text{Rs.1,51,200/-}$). After deducting $1/3^{\text{rd}}$ amount towards her personal expenses, the annual contribution to the family would be a sum of Rs.1,00,800/-. Considering her age, the appropriate multiplier to be adopted is 18. Therefore, the loss of dependency to the family would be a sum of Rs.18,14,400/- ($\text{Rs.1,00,800/-} \times 18 = \text{Rs.18,14,400/-}$). In all other respects, the Award remains unaltered. Therefore, taking into consideration the above aspects, the modified amount is as



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of dependency	Rs.14,11,200/-	Rs.18,14,400/-	Enhanced
2.	Loss of consortium	Rs.40,000/-	Rs.40,000/-	Confirmed
3.	Medical Expenses	Rs.1,27,999/-	Rs.1,27,999/-	Confirmed
4.	Loss of estate	Rs.15,000/-	Rs.15,000/-	Confirmed
5.	Transportation	Rs.5,000/-	Rs.5,000/-	Confirmed
6.	Funeral expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
	TOTAL	Rs.16,14,200/-	Rs.20,17,399/-	

12. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The 2nd respondent/Insurance Company is directed to deposit the entire compensation amount of Rs.20,17,399/- with interest @7.5% per annum, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.4645 of 2016 on the file of the learned Special Subordinate Judge No.I, Motor Accidents Claims Tribunal, Chennai, within a period of four



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weeks from the date of receipt of a copy of this order, if not deposited earlier. On such deposit, the claimant is permitted to withdraw the entire award amount by making necessary applications.

C.M.A.No.3428 of 2019:

13.The 1st petitioner is the husband, 2nd petitioner is the son and the 3rd petitioner is the daughter of the deceased Gulab Jan. The deceased was aged 39 years at the time of death. She was running a Tiffin stall and earning a monthly income of Rs.18,000/-. The Tribunal has granted a sum of Rs.13,79,400/- as compensation for the death of the deceased Gulab Jan. Considering the avocation of the deceased, the notional income can be enhanced to a sum of Rs.10,000/- per month to which future prospects of 40% is to be added.



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Therefore, the monthly income would come to Rs.14,000/-.

The annual income would work out to a sum of Rs.1,68,000/-

(Rs.14,000/- x 12 = Rs.1,68,000/-). After deducting 1/3rd

amount towards her personal expenses, the annual

contribution to the family would be a sum of Rs.1,12,000/-.

Considering her age, the appropriate multiplier to be adopted

is 16. Therefore, the loss of dependency to the family would

be a sum of Rs.17,92,000/- (Rs.1,12,000/- x 16 =

Rs.17,92,000/-). The claimants 2 and 3 are entitled to a sum of

Rs.40,000/- each towards loss of love and affection.

Therefore, a sum of Rs.80,000/- is granted under the head of

loss of love and affection to the children. In all other respects,

the Award remains unaltered. Therefore, taking into

consideration the above aspects, the modified amount is as



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follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of dependency	Rs.12,54,400/-	Rs.17,92,000/-	Enhanced
2.	Loss of consortium	Rs.40,000/-	Rs.40,000/-	Confirmed
3.	Loss of love and affection to the two children (Rs.40,000/- x 2)	Rs.50,000/-	Rs.80,000/-	Enhanced
4.	Loss of estate	Rs.15,000/-	Rs.15,000/-	Confirmed
5.	Transportation	Rs.5,000/-	Rs.5,000/-	Confirmed
6.	Funeral expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
	TOTAL	Rs.13,79,400/-	Rs.19,47,000/-	

14. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The 2nd respondent/Insurance Company is directed to deposit the entire compensation amount of Rs.19,47,000/- with interest @7.5% per annum, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.4653 of 2016 on the file of the learned Special Subordinate Judge No.I, Motor



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Accidents Claims Tribunal, Chennai, within a period of four weeks from the date of receipt of a copy of this order, if not deposited earlier.

15.Out of the total compensation, the 1st petitioner, being the husband of the deceased, is entitled to Rs.9,47,000/- (Rupees nine lakh forty seven thousand only) and the 2nd and 3rd petitioners, being the son and daughter of the deceased, are entitled to Rs.5,00,000/- (Rupees five lakh only) each. On such deposit, the claimants are permitted to withdraw the entire award amount with proportionate accrued interest and costs by making necessary applications.

C.M.A.No.3429 of 2019:

16.The 1st petitioner is the wife, minors 2 and 3 petitioners are the daughters and 4th petitioner is the mother of the deceased Fazil Ahamed. The deceased was aged 26



years at the time of death. He was an Auto Driver and earning a monthly income of Rs.18,000/-. The Tribunal has granted a sum of Rs.19,13,600/- as compensation for the death of the deceased Fazil Ahamed. Considering the facts that the deceased was a Driver, the notional income can be enhanced to a sum of Rs.10,000/- per month to which future prospects of 40% is to be added. Therefore, the monthly income would come to Rs.14,000/-. The annual income would work out to a sum of Rs.1,68,000/-(Rs.14,000/- x 12 = Rs.1,68,000/-). After deducting 1/4th amount towards his personal expenses, the annual contribution to the family would be a sum of Rs.1,26,000/-. Considering his age, the appropriate multiplier to be adopted is 17. Therefore, the loss of dependency to the family would be a sum of Rs.21,42,000/- (Rs.1,26,000/- x 17 =Rs.21,42,000/-). The appellants 2 to 4/claimants 2 to 4 are entitled to a sum of Rs.40,000/- each towards loss of love and affection. Therefore, a sum of



Rs.1,20,000/- is granted under the head of loss of love and affection to the children and the mother of the deceased. In all other respects, the Award remains unaltered. Therefore, taking into consideration the above aspects, the modified amount is as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of dependency	Rs.17,13,600/-	Rs.21,42,000/-	Enhanced
2.	Loss of consortium	Rs.40,000/-	Rs.40,000/-	Confirmed
3.	Loss of love and affection to the two children (Rs.40,000/- x 3)	Rs.1,25,000/-	Rs.1,20,000/-	Reduced
4.	Loss of estate	Rs.15,000/-	Rs.15,000/-	Confirmed
5.	Transportation	Rs.5,000/-	Rs.5,000/-	Confirmed
6.	Funeral expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
	TOTAL	Rs.19,13,600/-	Rs.23,37,000/-	

17. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The 2nd respondent/Insurance Company is directed to deposit the entire compensation amount of



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Rs.23,37,000/- with interest @7.5% per annum, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.4644 of 2016 on the file of the learned Special Subordinate Judge No.I, Motor Accidents Claims Tribunal, Chennai, within a period of four weeks from the date of receipt of a copy of this order, if not deposited earlier.

18.Out of the total compensation, the 1st petitioner, being the wife of the deceased, is entitled to Rs.10,00,000/-(Rupees ten lakhs only), the 2nd and 3rd petitioners, being the minor daughters of the deceased are entitled to Rs.5,00,000/- (Rupees five lakh only) each and the 4th petitioner, being the mother of the deceased, is entitled to Rs.3,37,000/-(Rupees three lakhs thirty seven thousand only).



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19. On such deposit, the 1st and 4th petitioners are permitted to withdraw their share amount with proportionate accrued interest and costs by making necessary applications. The share of the minors/2nd and 3rd petitioners shall be deposited in any one of the Nationalised Banks in fixed deposit under the reinvestment scheme initially for a period of three years. The interest accruing on the share of the minors/2nd and 3rd petitioners shall be paid to the mother of the minors, once in three months, till they attain majority.

All the claimants are directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimants.

No costs.

21.02.2023

Index : Yes/No

Internet : Yes/No

Speaking order / Non speaking order

mps



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To

The Special Subordinate Judge No.I,
Motor Accidents Claims Tribunal,
Chennai.



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A.A.NAKKIRAN, J.

mps

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