



CMA.No.1968 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.1968 of 2022
& CMP.No.14980 of 2022

The Manager,
Oriental Insurance Company Ltd.,
D.O.XI, 14, 1st Main Road, Gandhi Nagar,
Adayar, Chennai – 600 020.

... Appellant

-Vs-

1.Mariyammal
2.Dhanalakshmi
3.Shanthi
4.Kaliammal
5.Poongodi
6.Vikram Varma

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V.Act, 1988, against the award and decree dated 20.04.2022 made in MCOP.No.97 of 2018 on the file of the Motor Accidents Claims Tribunal (Sub Court), Rasipuram.

For Appellant	: Mr.D.Bhaskaran
For R1 to R5	: Mr.Ma.P.Thangavel
For R6	: Ex-parte before the Tribunal



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JUDGMENT

60 years old Subramani died when a two-wheeler bearing Regn.No.TN 07 CD 1371 dashed against him. He suffered injuries to his person and was hospitalized and later, he passed away. Claiming compensation, his five sisters have combined to file a claim petition in MCOP.No.97 of 2018 before the Motor Accident Claims Tribunal (Sub Court), Rasipuram.

2.In terms of the statement made in the FIR, the victim was not into any avocation, as he had some mental issues and he has been chiefly cared by his sisters, besides the pension granted for senior citizens by the Government. However, to add dignity to life, the Tribunal has fixed the notional monthly income of the victim at Rs.5,000/-, to which it added another 10% towards future prospects and applied 9 as the multiplier and deducted $\frac{1}{3}^{\text{rd}}$ towards the personal expenditure of the victim and awarded Rs.3,96,000/- towards loss of dependency. Including other conventional heads, the Tribunal had awarded Rs.7,74,000/-. The break up is as below;



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Sl.No.	Head	Amount awarded by the Tribunal
1.	Loss of Dependency	Rs.3,96,000/-
2.	Love and Affection	Rs.1,25,000/-
3.	Loss of Estate	Rs.16,500/-
4.	Funeral Expenses	Rs.16,500/-
5.	Loss of Filial Consortium	Rs.2,20,000/-
	Total	Rs.7,74,000/-

Aggrieved by the same, the insurance company of the offending vehicle is before the Court.

3.Heard both sides.

4.The learned counsel for the appellant made the following statements;

- a) Ext.P1, FIR was laid by one of the claimants which discloses that the appellant was not earning anything but, was essentially cared by her. In these circumstances, the Tribunal having granted 10% towards future prospects of increase in income, ought not to have been granted and also applied 9 as the multiplier. Preferably, it should have applied 5 as the multiplier.



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b) the Tribunal had awarded Rs.1,25,000/- towards loss of love and affection and again granted another Rs.2,20,000/- towards loss of filial consortium. The claimants are entitled to only one of the two.

5.This Court confirms Rs.5,000/- as fixed by the Tribunal as the notional monthly income of the victim and if another 10% is added, the annual income would be Rs.72,000/-. Given the nature of allegation made in Ext.P1, FIR regarding the mental state and avocation of the victim, this Court deems it appropriate to fix 5 as the multiplier and reduces it by another $\frac{1}{3}^{\text{rd}}$, which part is set aside for the personal expenditure of the victim and determines the net value of loss of dependency at Rs.2,40,000/-. The compensation now awarded is as below;

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	3,96,000/-	2,40,000/-	Reduced



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2.	Love and affection	1,25,000/-	-	Reduced
3.	Loss of Estate	16,500/-	16,500/-	Confirmed
4.	Funeral Expenses	16,500/-	16,500/-	Confirmed
5.	Loss of Filial Consortium	2,20,000/-	2,20,000/-	Confirmed
	Grand Total	7,74,000/-	4,93,000/-	Reduced by 2,81,000/-

This Court notices that the victim died some 20 days after the accident had taken place and considers that his estate is entitled to compensation for pain and suffering. Therefore, rounds of the compensation payable to Rs.5,00,000/-.

6.In the result, this Court partially allows this appeal and reduces the compensation awarded by the Tribunal from Rs.7,74,000/- to Rs.5,00,000/-, together with interest at 7.5% per annum from the date of petition till the date of deposit. The Appellant/Insurance company is now required to deposit the sum now awarded by this Court, along with interest, withing a period of six (6) weeks from the date of receipt of a copy of this order. On such deposit, the claimants/respondents are



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permitted to withdraw the award amount, now determined by this Court,
along with interest and costs, less the amount if any, already withdrawn.

No costs. Consequently, connected miscellaneous petition is closed.

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To

- 1.The Motor Accidents Claims Tribunal,
(Sub Court), Rasipuram.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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N.SESHASAYEE, J.,

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