



C.M.A Nos.2125 and 2126 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 03.11.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.2125 and 2126 of 2022

1.Sangeetha
2.Minor V.Vishnu
3.Minor V.Vishwa
4.K.Rani
(Minor Appellants 2 and 3 rep. by
their mother and natural guardian Sangeetha/1st Appellant)

... Appellants in C.M.A.No.2125 of 2022

1.V.Chitra
2.V.Vignesh
3.V.Dinesh
4.V.Divya
5.K.Rani

... Appellants in C.M.A.No.2126 of
2022

Vs.

1.M/s.Sri Balamalai Murugan Transport
(by its proprietor)
SBM Complex, Natchimuthu Nagar,
K.Paramathy Post,
Aravakurichi Taluk,
Karur District-639207.



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2.The Branch Manager,
IFFCO Tokio General Insurance Company Ltd.
Opposite to Kumudham Petrol Bunk, Upstairs of
Sundaram Hardware Shop,
Nellikuppam,
Cuddaore-607001.

... Respondents in both the C.M.As

Prayer in C.M.A.No.2125 of 2022: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, seeking to allow the appeal and enhance the compensation in M.C.O.P.No.649 of 2021, dated 25.07.2022 on the file of the Motor Accidents Claims Tribunal / I Additional District and Sessions Judge, Cuddalore.

Prayer in C.M.A.No.2126 of 2022: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, seeking to allow the appeal and enhance the compensation in M.C.O.P.No.650 of 2021, dated 25.07.2022 on the file of the Motor Accidents Claims Tribunal / I Additional District and Sessions Judge FAC, Cuddalore.

For Appellants : Ms.Ramya V.Rao
in both C.M.As

For Respondents : No Appearance - R1

Mr.J.Michael Visuvasam
for R2 in both C.M.As



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COMMON JUDGMENT

The appellants in these twin appeals are the claimants in M.C.O.P.No.649 of 2021 and M.C.O.P.No.650 of 2021, respectively. Dissatisfied with the quantum of compensation awarded for the death of two persons in a single accident, the claimants have preferred this appeal. The victim in M.C.O.P.No.649 of 2021 was a rider of the motorcycle and the victim in M.C.O.P.No.650 of 2021 was his pillion.

2.The accident took place on 18.07.2021 at around 17.00 hrs in the evening when a goods carrier belonging to the first respondent and insured with the second respondent knocked the motorcycle, on which the victims were traveling, from behind.

3.As outlined earlier, in both the cases, the dependents of the victims of the accident have preferred separate claim petitions. Regarding the victim in M.C.O.P.No.649 of 2021, he was a rider of the motorcycle bearing Registration No.TN-31-BK-8563. He was 33 years old and worked as a Washerman at the time of the accident. Turning to the victim in



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M.C.O.P.No.650 of 2021, he was the brother of the victim in

M.C.O.P.No.649 of 2021 and was a pillion rider. He was 41 years old

and worked as a Loadman and Washerman, earning Rs.45,000/- per month at the time of the accident. Both victims died on the spot.

4. Seeking compensation, the claimants of the victim in M.C.O.P.No.649 of 2021 approached the Tribunal, and the Tribunal had reckoned the notional income at Rs.12,000/-, to which it added 40% towards future prospects, applied 16 as a multiplier and deducted 1/4 towards personal expenditure of the victim, and arrived at a net value of dependency at Rs.24,19,200/-. After adding compensation payable on other conventional heads, the Tribunal arrived at a total compensation of Rs.26,38,200/-, and the breakup is as below:

<i>Sl.No.</i>	<i>Description</i>	<i>Award amount (in Rs.)</i>
1.	Loss of Income	24,19,200
2.	Loss of spousal consortium	44,000
3.	Loss of parental consortium	88,000
4.	Loss of filial consortium	44,000
5.	Funeral expenses and loss of estate	33,000
6.	Transport expenses	10,000
	Total amount	26,38,200



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5. Seeking compensation, the claimants of the victim in M.C.O.P.No.650 of 2021 approached the Tribunal, and the Tribunal had reckoned the notional income at Rs.12,000/-, to which it added 25% towards future prospects, applied 14 as a multiplier and deducted 1/4 towards personal expenditure of the victim, and arrived at a net value of dependency at Rs.18,90,000/-. After adding compensation payable on other conventional heads, the Tribunal arrived at a total compensation of Rs.21,53,000/-, and the breakup is as below:

<i>Sl.No.</i>	<i>Description</i>	<i>Award amount (in Rs.)</i>
1.	Loss of Income	18,90,000
2.	Loss of spousal consortium	44,000
3.	Loss of parental consortium	1,32,000
4.	Loss of filial consortium	44,000
5.	Funeral expenses and loss of estate	33,000
6.	Transport expenses	10,000
	Total amount	21,53,000

6. Ms. Ramya V. Rao, learned counsel for the appellants submitted that the only grievance of the claimants is that the notional income has been unrealistically fixed by the Tribunal, given the fact that the accident took place in July, 2021.



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7. Heard Mr.J.Michael Visuvasam, learned counsel appearing for the second respondent, who submitted that the compensation awarded by the Tribunal under each heads are just and reasonable and does not warrant any interference of this Court.

8. On a fair appraisal of the statement made, this Court, considers that Rs.14,000/- per month would be realistic, given the cost of living for the year 2021, in both the cases. As far as M.C.O.P.No.649 of 2021 is concerned, this Court fixes Rs.14,000/- as notional income, to which it adds another 40% towards future prospects on the basis of the ratio in *National Insurance Company Ltd., Vs. Pranay Sethi and others* [2017 2 TANMAC 609], applies 16 as a multiplier and deducts 1/4 towards personal expenditure of the victim and arrived at a net value of loss of dependency at Rs.28,22,400/-. The compensation awarded by the Tribunal under other heads are modified and adjusted as hereunder:-

Sl. No	Description	Amount awarded by Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
1.	Loss of Income	24,19,200	28,22,400	Enhanced
2.	Loss of spousal	44,000	44,000	Confirmed



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	consortium			
3.	Loss of parental consortium	88,000	88,000	Confirmed
4.	Loss of filial consortium	44,000	44,000	Confirmed
5.	Funeral expenses and loss of estate	33,000	33,000	Confirmed
6.	Transport expenses	10,000	10,000	Confirmed
	Grand Total	26,38,200	30,41,400	Enhanced by Rs.4,03,200/-

9.Insofar as M.C.O.P.No.650 of 2021 is concerned, this Court fixes Rs.14,000/- as notional income, to which it adds another 25% towards future prospects on the basis of the ratio in *National Insurance Company Ltd., Vs. Pranay Sethi and others* [2017 2 TANMAC 609], applies 14 as a multiplier and deducts 1/4 towards personal expenditure of the victim and arrived at a net value of loss of dependency at Rs.22,05,000/-. The compensation awarded by the Tribunal under other heads are modified and adjusted as hereunder:-



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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 Income	18,90,000	22,05,000	Enhanced
2.	Loss of spousal consortium	44,000	44,000	Confirmed
3.	Loss of parental consortium	1,32,000	1,32,000	Confirmed
4.	Loss of filial consortium	44,000	44,000	Confirmed
5.	Funeral expenses and loss of estate	33,000	33,000	Confirmed
6.	Transport expenses	10,000	10,000	Confirmed
	Grand Total	21,53,000	24,68,000	Enhanced by Rs.3,15,000/-

10.To conclude, these appeals stand partly allowed and the award of the Tribunal is modified. This Court is informed that the second respondent had already deposited the entire sum awarded by the Tribunal in both the cases. Therefore, the second respondent is now required to deposit the differential sum of Rs.4,03,200/- to the credit of M.C.O.P.No.649 of 2021 and Rs.3,15,000/- to the credit of M.C.O.P.No.650 of 2021 along with interest at 7.5% from the date of the claim petition till the date of deposit, within a period of six (6) weeks from the date of receipt of a copy



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of this Judgment. On such deposit being made, the appellants 1 and 4 in

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are permitted to withdraw the award amount falling to their share, along with proportionate interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn. The amount due to the minors shall be deposited in a Nationalized Bank. Till the minors attain majority, the quarterly interest can be withdrawn by the first appellant for the maintenance of the minors. The claimants in both the appeals are directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee is produced by the claimants. No Costs.

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

N.SESHASAYEE, J.



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To

The Motor Accidents Claims Tribunal
/ I Additional District and Sessions Judge, Cuddalore.

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