



C.M.A.Nos.2861 of 2017 &
4767 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.Nos.2861 of 2017 & 4767 of 2019

C.M.A.No.2861 of 2021:

M/s.Cholamandalam MS General
Insurance Company Ltd.,
State Bank of Travancore Upstairs,
Rajaji Road,
Salem – 7.

.. Appellant

Vs.

1.Revathy
2.Suresh
3.Elangovan

.. Respondents

C.M.A.No.4767 of 2019:

1.Revathy
2.Suresh

.. Appellant

Vs.

1.Elangovan
2.M/s.Cholamandalam MS General
Insurance Company Ltd.,
State Bank of Travancore Upstairs,
Rajaji Road,
Salem – 7.

.. Respondents



C.M.A.Nos.2861 of 2017 &
4767 of 2019

Common prayer : Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accidents Claims Tribunal, Sub-Court, Sankari, made in M.C.O.P.No.836 of 2011 dated 25.04.2017.

(In C.M.A.No.2861 of 2017)

For Appellant : Mr.J.Michael Visuvasam

For Respondents : Mr.T.S.Arthanreeswaran

(In C.M.A.No.4767 of 2019)

For Appellants : Mr.T.S.Arthanareeswaran

For Respondents : Mr.J.Michael Visuvasam

COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed against the Judgment and Decree of the Motor Accidents Claims Tribunal, (in the Court of Sub-Judge), Sankari, made in M.C.O.P.No.836 of 2011 dated 25.04.2017.

2. The manner of the accident, factum of the accident, rash and negligence driving on the part of the driver of the offending vehicle are not in



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dispute in both appeals. Hence, the finding rendered by the Tribunal is hereby confirmed.

3. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

4. On 01.10.2011 at about 4.30 hours, when the 1st claim petitioner along with her son and daughter standing in Tiruchengode – Vellore road, the Ashok Leyland Lorry bearing Regn.No.TN-X-2738 coming from Tiruchengode to Vellore, driven by its driver, in a rash and negligent manner and without following traffic rules dashed against the son of the 1st claim petitioner and front wheel of the said lorry ran over his head. Hence, the accident occurred, due to which, her son died on the spot. Hence, the claim petition.

5. The appellant in C.M.A.No.2861 of 2017 is the Insurance Company, filed the above appeal to set aside the award passed by the Tribunal and the appellants in C.M.A.No.4767 of 2019 are the claim petitioners filed the appeal seeking for enhancement of compensation on the grounds of quantum.



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6. During the trial, on behalf of the claim petitioners P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P8 were marked and on the side of the respondents no one was examined and no document was marked.

7. On consideration of both oral and documentary evidence, the Tribunal came to conclusion that the accident has taken place due to the rash and negligent driving of the driver of the offending vehicle and accordingly, fixed the liability on the respondents and granted the compensation as follows:

<i>Heads</i>	<i>Compensation</i>
Future Prospects	Rs.9,72,000/-
Loss of love and affection	Rs.1,50,000/-
Funeral expenses	Rs.25,000/-
Transportation	Rs.10,000/-
Loss of estate	Rs.10,000/-
<i>Total</i>	Rs.11,67,000/-

8. The learned counsel for the appellant / Insurance Company in C.M.A.No.2861 of 2017 submitted that the compensation awarded by the Tribunal under various heads are unreasonable and highly excessive. Hence, he prays to set aside the award passed by the Tribunal.



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9. In support of his contention, he relied upon the judgments of the Hon'ble Supreme Court in the case of ***Kurvan Ansari and Another Vs. Shyam Kishore Murmu and Another*** reported in **2022 ACJ 166** and ***Meena Devi Vs. Nunu Chand Mahto and Others*** reported in **2022 ACJ 2478**.

10. The learned counsel for the appellants in C.M.A.No.4767 of 2019 submitted that the compensation awarded by the Tribunal under various heads are very meagre. Further, in support of his contention, he relied upon the judgment of this Court passed in ***C.M.A.(MD).No.847 of 2022*** dated **17.03.2023**. Hence, he prays for enhancement of compensation.

11. Heard both side and perused the materials available on record.

12. Considering the facts and circumstances and also taking note of the plea raised by the learned counsel for the appellants in both appeals, this Court is of the considered view that the Tribunal awarded Rs.9,72,000/- towards future prospects, which appears to be higher side and hence, it has to be reduced. Accordingly, a sum of Rs.3,60,000/- ($\text{Rs.48,000} \times 50/100 = 24,000 \times$



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15) is awarded for future prospectus. The Tribunal awarded Rs.1,50,000/- towards loss of love and affection, which seems to be excessive and hence, it has to be reduced to Rs.80,000/-. The Tribunal awarded Rs.25,000/- towards funeral expenses, it has to be reduced to Rs.15,000/-. The Tribunal awarded Rs.10,000/- towards loss of estate, which appears to be lower side and hence, this Court is inclined to enhance the said amount to Rs.15,000/-. The Tribunal awarded Rs.10,000/- towards transportation, which has to be deleted. Accordingly, the modified award amount as follows;-

<i>Heads</i>	<i>Compensation</i>
Future prospects	Rs.3,60,000/-
Loss of love and affection	Rs.80,000/-
Funeral expenses	Rs.15,000/-
Loss of estate	Rs.15,000/-
<i>Total</i>	<i>Rs.4,70,000/-</i>

C.M.A.No.2861 of 2017:

In fine,

(i) The civil miscellaneous appeal is partly allowed to the extent indicated above. The appellant / Insurance Company is directed to deposit the modified award amount i.e., Rs.4,70,000/-, less the amount already paid, if any together with interest at 7.5% per annum from the date of petition till date of



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deposit and costs to the credit of M.C.O.P.No.836 of 2011 on the file of the Motor Vehicle Accident Claims Tribunal, Sub-Judge, Sankari, within a period of six(6) weeks from the date of receipt of a copy of this order.

(ii) On such deposit, the claim petitioners / respondents are permitted to withdraw the modified award amount, on due application.

(iii) Accordingly, this Civil Miscellaneous Appeal is partly allowed. No costs.

C.M.A.No.4767 of 2019:

In fine,

(i) In view of the modification made by this Court in C.M.A.No.2861 of 2017, nothing survives in this appeal. Hence, this civil miscellaneous appeal is dismissed. No costs.

22.06.2023

Internet : Yes/No
Speaking Order/Non-Speaking Order
ata

A.A.NAKKIRAN, J.



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To

The Presiding Officer,
Motor Accidents Claims Tribunal
(Sub-Judge),
Sankari.

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