



C.M.A.No.2711 & 2712 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 20.02.2023	Pronounced on 28.02.2023
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.Nos.2711 & 2712 of 2022

CMA.No.2711 of 2022

Manoharan, S/o.Pandurankan
No.1/51, Middle Street
Naranamangalam
Padalur Post, Alathur Taluk
Perambalur District.

... Appellant

Vs.

1.P.Selvaraj
S/o.Pachamuthu
No.7/74, Amman Street
Errasamuthiram, Ayilur Post
Kalpadi, Perambalur District – 621 212

2.The Branch Manager
M/s.United India Insurance Company Limited
No.50-A, Palivasal Street
Prambalur.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Order and Decretal Order in MCOP.No.814 of 2018 dated 05.08.2022, on the file of the Motor Accident Claims Tribunal/Principal District Judge, Perambalur.



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1.Manoharan, S/o.Pandurankan
No.1/51, Middle Street
Naranamangalam
Padalur Post, Alathur Taluk
Perambalur District.

2.Padmapriya, W/o.Ramachandran
D/o.Manoharan
No.2/301, Middle Street
Kadaiveethi, Valikandapuram
Perambalur District.

3.Prathapkumar, S/o.Manoharan
No.1/51, Middle Street
Naranamangalam
Padalur Post, Alathur Taluk
Perambalur District.

... Appellants

Vs.

1.P.Selvaraj
S/o.Pachamuthu
No.7/74, Amman Street
Errasamuthiram, Ayilur Post
Kalpadi, Perambalur District – 621 212

2.The Branch Manager
M/s.United India Insurance Company Limited
No.50-A, Palivasal Street, Prambalur.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Order and Decretal Order in MCOP.No.817 of 2018 dated 05.08.2022, on the file of the Motor Accident Claims Tribunal/Principal District Judge, Perambalur.



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For Appellant : Ms.K.Priyavarshini
(in both cases)

For Respondents : Ms.I.Malar (for R2)

R1 – Dispensed with
(in both cases)

COMMON JUDGMENT

The Appeals have been filed against the common Order and Decreetal Order made in MCOP.No.814 & 817 of 2018 dated 05.08.2022, on the file of the Motor Accident Claims Tribunal/Principal District Judge, Perambalur.

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2.The claim Petitioner is the Appellant herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioner filed MCOP.No.814 of 2018, seeking compensation for the injuries sustained by him in a road traffic accident occurred on 15.07.2018. The Tribunal has awarded a sum of Rs.1,92,584/- with interest at the rate of 7.5%. Aggrieved against the same and seeking enhancement, he has preferred this Appeal.



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4.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.817 of 2018. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

5.The legal representatives of the deceased Buvaneswary filed MCOP.No.817 of 2018, seeking compensation and filed this Appeal on the point of quantum.

6.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in these Appeals. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.

7.During the trial, on the side of the claim Petitioners, PW1 was examined, Ex.P.1 to Ex.P.13 were marked and on the side of the Respondents, none was examined and no document was marked and Ex.C1 was also marked before the Tribunal.



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8. Heard the learned counsel for the claim Petitioners and learned counsel for the Insurance Company.

9. The deceased was aged about 57 years at the time of the accident (15.07.2018) and said to have been worked as Tailor. The trial Court has not fixed any notional income, stating that the husband is working. Taking into consideration the law laid down by the Hon'ble Apex Court in the case of ***Syed Sadiq Vs. United India Insurance Company***, reported in **2014 (1) TNMAC 459**, wherein monthly income was fixed at Rs.6,500/- for a vegetable vendor, who sustained injuries in an accident, which occurred in the year 2008 and the fact that in the present case, the accident is of the year 2018, I am of the considered view that she would have been earned a sum of Rs.12,000/- at the time of the accident and 10% to be added towards future prospects. Since there are three dependents in the family $\frac{1}{3}^{\text{rd}}$ has to be deduced towards personal expenses of the deceased and '9' to be applied as multiplier and hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$\text{Rs.12,000/-} + 10\% \text{ of Rs.12,000/-} = \text{Rs.13,200/-}$$

$$\text{Rs.13,200/-} \times 12 \times 9 \times \frac{2}{3} = \text{Rs.9,50,400/-}$$



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10.The Tribunal has awarded a sum of Rs.15,000/- towards funeral expenses. The same is hereby confirmed. The claim Petitioners are entitled to get a sum of Rs.40,000/- each towards loss of love and affection, a sum of Rs.15,000/- towards loss of estate, Rs.10,000/- towards transportation and as per Ex.P.7/Medical bills, a sum of Rs.46,896/- is awarded to the claim Petitioners towards Medical bills.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	950400
2	Loss of love and affection (Rs.40,000/- x 3)	120000
3	Funeral expenses	15000
4	Loss of Estate	15000
5	Transportation	10000
6	Medical bills	46896
	Total Compensation	1157296
	Rounded off	1157300

In total, the claim Petitioners are entitled to a sum of Rs.11,57,300/- (Rupees eleven lakh fifty seven thousand three hundred only). The interest awarded by the Tribunal at the rate of 7.5% per annum is hereby confirmed.

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11.The claim Petitioner is said to have been doing agricultural job. As



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per Ex.P.3/discharge summary, he has suffered by 4% of partial permanent disability. The date of accident is 15.07.2018 and hence, Rs.5,000/- is fixed per percentage and accordingly, a sum of Rs.20,000/- [Rs.5,000/- x 4] is awarded for the disability sustained by the claim petitioner. The notional income of the claim Petitioner is fixed at Rs.12,000/- per month and due to the accident, he would have lost his six months salary and accordingly, a sum of Rs.72,000/- (Rs.12,000/- x 6) is awarded towards loss of earning. The Tribunal has awarded a sum of Rs.20,000/- towards pain and sufferings, a sum of Rs.10,000/- towards transportation and as per Ex.P.5(s), a sum of Rs.98,584/- towards medical expenses, which are just and proper and the same are hereby confirmed. Extra nourishment awarded by the Tribunal is enhanced to Rs.10,000/-. A sum of Rs.10,000/- is awarded towards loss of amenities and a sum of Rs.10,000/- is awarded towards attender charges.

<i>S.No.</i>	<i>Heads</i>	<i>Amount (Rs.)</i>
1	Disability	20000
2	Pain and sufferings	20000
3	Medical expenses	98584
4	Loss of income	72000
5	Attender charges	10000
6	Nutrition and extra nourishment	10000
7	Transportation	10000



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<i>S.No.</i>	<i>Heads</i>	<i>Amount (Rs.)</i>
8	Loss of amenities	10000
	Total	250584
	Rounded off	250600

The Tribunal has awarded 7.5% interest per annum. The same is hereby confirmed.

12.In total, the claim Petitioner is entitled to a sum of Rs.2,50,600/- (Rupees two lakh fifty thousand and six hundred only).

13. In fine (**CMA.No.2711 of 2022**),

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.1,92,584/- to Rs.2,50,600/- to the extent indicated above, with 7.5% interest per annum. No Costs.

(ii) the Insurance Company is directed to deposit the enhanced award amount before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim Petitioner/Appellant is permitted to withdraw the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.



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(iv) the claim Petitioner/Appellant is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

14. In fine **(CMA.No.2712 of 2022)**,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.2,81,896/- to Rs.11,57,300/- to the extent indicated above. No Costs.

(ii) the Insurance Company is directed to deposit the enhanced award amount, with interest and costs before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order.

(iii) on such deposit being made, all the claim Petitioners/Appellants are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The claim Petitioners are permitted to withdraw their entire share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal.

(iv) the claim Petitioners are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree



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only after the receipt of Court fee.

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28.02.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To
The Principal District Judge
Motor Accident Claims Tribunal,
Perambalur.



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RMT.TEEKAA RAMAN.J,

sai

Pre-delivery Judgment made in
C.M.A.Nos.2711 & 2712 of 2022

Dated: 28.02.2023