



C.M.A.(MD)No.311 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.311 of 2022

1.Chinnammal
2.Andisamy
3.Balamurugan
Andi Ambalam (died)

...Appellants/Petitioners

Vs.

1.Krishnasamy
2.The Branch Manager,
United India Insurance Company Ltd.,
D.No.1, Jeeva Jothi Buildings,
Salai Road,
Dindigul-624 001.
(Policy No.0907003114P104489803)

..Respondents/Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal and enhance the compensation made in M.A.C.O.P.No.341 of 2016 dated 18.12.2020 on the file of the Additional District Court, Dindigul.

For Appellants : Mr.S.Pugalendhi

For R2 : No Appearance



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JUDGMENT

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Challenging the award passed by the Motor Accident Claims Tribunal/Additional District Court, Dindigul in M.C.O.P.No.341 of 2016 dated 18.12.2020, the present Civil Miscellaneous Appeal is filed.

2.For the sake of convenience, the parties are referred to herein, as per their rank before the Trial Court.

3.The brief facts, leading to the filing of this Civil Miscellaneous Appeal, are as follows:-

(i)On 27.05.2015, at about 01.45 p.m., when the deceased was travelling as a passenger along with the other passengers in the first respondent bus bearing Registration No.TN-57-K-6868, the driver of the bus driven bus in a rash and negligent manner and suddenly turned the bus at Pangampadi Privu, due to which the deceased was thrown away from the bus and sustained head injuries and succumbed to injuries.



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(ii)The first petitioner is the wife of the deceased, the second and third petitioners are the children of deceased and the fourth petitioner is the father of the deceased. He was aged about 48 and he was earning a sum of Rs.10,000/- per month. Hence, the claim petition has been filed.

(iii)The respondent before the Tribunal took a stand that the deceased jumped from the running bus and as a result of which he succumbed to injuries. The accident had taken place only due to the negligent act of the deceased.

4. Before the Tribunal, on the side of the claimant P.W.1 and P.W.2 was examined and Ex.P1 to Ex.P5 were marked. On the side of the respondents no oral and documentary evidence had been marked.

5.The tribunal on appreciation of entire evidence available on record had fixed the negligence on the part of the driver of the bus and awarded the compensation as follows:

S.No.	Description	Amount
1.	Loss of income	Rs.7,74,444/-
2.	Loss of consortium to the first petitioner	Rs. 20,000/-



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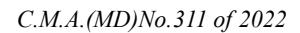
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3.	Loss of love and affection to the 2 nd to 4 th petitioners each at Rs.5,000/-	Rs. 15,000/-
4.	Funeral Expenses	Rs. 15,000/-
5.	Loss of estate	Rs. 2,000/-
6.	Transport expenses	Rs. 5,000/-
	Total	Rs.8,31,444/-

Challenging the same, the present Civil Miscellaneous Appeal has been filed by the claimants seeking enhancement of compensation.

6.I have heard the learned counsel appearing on either side and also perused the materials available on record.

7.The learned counsel appearing for the appellants submitted that the driver of the first respondent bus was negligent in driving the bus and FIR was also registered against the driver of the bus. He was working as agricultural coolie and load man. He was earning a sum of Rs.10,000/- (Rupees Seven Thousand Only) per month. The Tribunal without properly considering the the said fact, has erroneously fixed the meagre amount of Rs.5,867/- per month as notional income and deducted 1/3 instead of 1/4 as there are four claimants.



9. In view of the above submission, now the point arises for consideration in this appeal is:

(2) Whether the Tribunal is right in adopting the multiplier 11?

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11. In view of the same, considering all the materials on record, the notional income of the deceased is fixed at Rs.10,000/- (Rupees Three Thousand Only). As per Ex.P2, the age of the deceased is 48. Hence, the correct multiplier to be applied for the age of 48 is 13. Since there are four claimants, 1/4 deduction is applied and the amounts granted towards loss of consortium, loss of love and affection to the claimants 2 to 4 and loss of estate are very meagre, therefore, same are also enhanced.

12. In the result, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal is enhanced as given below:

S.No.	Description	Amount
1.	Loss of income	Rs.12,87,000/-
2.	Loss of consortium to the first petitioner	Rs. 40,000/-
3.	Loss of love and affection to the 2 nd to 4 th petitioners each at Rs.5,000/-	Rs. 1,05,000/-
4.	Funeral Expenses	Rs. 15,000/-
5.	Loss of estate	Rs. 15,000/-
6.	Transport expenses	Rs. 5,000/-
	Total	Rs.14,67,000/-



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13.The Insurance Company is directed to deposit the compensation amount i.e., Rs.14,67,000/- (Rupees Fourteen Lakhs Sixty Seven Thousand only) as modified by this Court with interest at the rate of 7.5% per annum from the date of petition till the date of realization to the credit of M.C.O.P.No.341 of 2016, on the file of the Motor Accident Claims Tribunal/Additional District Court, Dindigul within a period of one month from the date of receipt of a copy of this judgment, less the amount, if any already deposited. On such deposit, the first claimant is entitled to a sum of Rs.7,67,000/- (Rupees Seven Lakhs Sixty Seven Thousand only), the fourth claimant is entitled to a sum of Rs.3,00,000/- (Rupees Three Lakhs only) and the second and third claimants are entitled to Rs.2 lakhs each as compensation. Since the fourth claimant, namely the father of the deceased, died after passing of the award by the Tribunal, his share shall be equally divided among other claimants. The claimants are permitted to withdraw the compensation amount, less the amount if any already withdrawn, by making necessary application before the Tribunal. No costs.

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NCC : Yes/No
Index : Yes/No
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N.SATHISH KUMAR, J.

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To

- 1.The Motor Accident Claims Tribunal/
Additional District Court, Dindigul.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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