



C.M.A(MD)No.148 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.10.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**C.M.A(MD)No.148 of 2020
and
C.M.P(MD)No.2509 of 2020**

1.The Medical Officer,
Primary Health Centre,
Malaikovilur,
Aravakkurichi Taluk,
Karur District.

2.The District Collector,
Karur.

...Appellants/Respondents 2 & 3

.VS.

1.Dr.N.Kannan

2.Minor Juhi Kannan
rep. by next friend
her father Dr.N.Kannan

3.K.Parvathi

4.M.Kandaiah

5.V.Mariyappan

... Respondents/Petitioners

... Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173(1) of Motor Vehicles Act, 1988 against the fair and decreetal order dated 23.10.2019 passed by the Motor Accident Claims Tribunal, (Principal



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District Judge), Karur under Motor Vehicles Act dated 23.10.2019 in
M.C.O.P.No.201 of 2023.

For Appellant	:Mr.D.Suchikumar Additional Government Pleader
For R1 to R4	:Mr.N.Sudhagar Nagaraj
For R5	:Mr.T.Anthony Arul Raj

JUDGMENT

[Judgment of the Court was made by **RMT.TEEKAA RAMAN.,J.**]

This Civil Miscellaneous Appeal is directed against the judgement and award made in M.C.O.P.No.201 of 2023, dated 23.10.2019, on the file of the Motor Accident Claims Tribunal, (Principal District Judge), Karur and to set aside the judgment and award.

2. For the sake of convenience, the parties are referred herein as per their ranking before the Tribunal.

3.The respondents 1 to 4 herein, who are the legal representatives of the deceased Backialakshmi, has filed the claim petition claiming compensation of Rs.2,00,00,000/- for the death of the said person in the road transport accident on 23.01.2013 while



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she was working as Government Doctor in the Primary Health Centre had travelled in a Swaraj Mazda van bearing Registration No.TN-09-G-1446 belongs to the Government represented by the District Collector. While the vehicle was plying from Sukkaliyur round about 11 a.m., due to the rash and negligent driving of the driver of the said van belongs to the Government, the van capsized and caused the accident, wherein, she suffered head injuries and succumbed to the injuries. At the time of accident, the age of the deceased was 30 years and she was working as Assistant Surgeon in Government Primary Health Centre, Malaikovilur. The Tribunal has awarded a sum of Rs.95,24,592/- as compensation. Aggrieved over the same, the Medical Officer, Primary Health Centre, Malaikovilur and the District Collector, Karur have filed this appeal.

4. The respondents in the claim petition herein have filed counter statement denying the manner of accident, negligence on the part of the driver.

5. Before the tribunal, the claimants examined five witnesses as P.Ws.1 to 5 and marked Exs.P.1 to P25 and on the side of the respondents two witnesses viz., RW1 to RW2 were examined and no



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documents were marked on the side of the respondents. Ex.X1 to Ex.X5 were marked as court documents.

6. Considering both oral and documentary evidence, the Motor Accident Claims Tribunal/District Court, Karur allowed the claim petition and awarded a sum of Rs.95,24,592/- along with interest at the rate of 7.5% p.a., and gave an apportionment.

7. Aggrieved against the said judgment and award, the respondents / owner of the vehicle District Collector has filed this appeal since the Government vehicle was exempted from compulsory insurance.

8. Heard the learned Additional Government Pleader appearing for the appellants and the learned counsel appearing for the claimants.

9. On perusal of the award passed by the learned Tribunal and also taking note of the evidence of P.W.2 and Ex.P3 and Ex.P5, we have no hesitation to hold that the accident had occurred due to the rash and negligent driving of the driver of the van, namely, Swaraj



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Mazda. The sixth respondent was employed under appellants herein and therefore, the appellants are jointly and severally liable to pay the compensation.

10. On the point of quantum of compensation, heard both sides.

11. On perusal of Ex.P13 salary certificate, we find that the deceased received a sum of Rs.34,574/- per month after payment of income tax and hence, for calculation purpose, it is rounded off to Rs.34,580/-. This Court is inclined to fix a sum of Rs.34,580/- as monthly salary and 50% has to be added as future prospects. On the date of accident, namely 23.01.2013 the deceased was 30 years. This point has been accepted by the learned counsel for the appellant. As per the birth certificate, the date of birth of the deceased is 22.06.1982 and the date of accident is 23.1.2013 and hence, on the date of accident, the deceased was aged about 30 years, 8 months and hence, we fixed the age of the deceased on the date of accident at 30 years and consequently, multiplier '17' to be adopted as per the Judgment reported in **2009(2) TN MAC 1 (SC) (Smt. Sarla Verma and Others Vs. Delhi Transport**



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corporation and another). The dependants are 4 in number, therefore, $1/4^{\text{th}}$ has to be deducted and therefore, pecuniary loss sustained by the claimants are re-assessed as under:-

Rs.34,580 as monthly salary + Rs.17,290/- (50% future prospects) = 51,870/-. Rs.51,870 x 12 x 17 x $3/4$ = 79,36,110/-
Therefore, the loss of income would be Rs.79,36,110/-.

12. The amount of Rs.40,000/- awarded by the Tribunal for loss consortium, Rs.1,00,000/- each for loss of love and affection to the respondents 2 to 4/ Claimants 2 to 4, Rs.15,000/- for loss of funeral expenses, Rs.15,000/- and Rs.77,000/- for medical and transport expenses are just and reasonable. Hence, the civil Miscellaneous appeal is partly allowed. Total Rs.83,83,110/-. Accordingly, the pecuniary loss sustained by the claimants are rearranged as under:-

13.The award of the Tribunal is modified as follows:



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S. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or modified or enhanced or granted
1.	Loss of income	Rs.90,77,592	Rs. 79,36,110	reduced
2.	Loss of Consortium to the 1 st claimant	Rs.40,000/-	Rs.40,000	confirmed
3.	Loss of Love and affection to the appellants 2 to 4	Rs.1,00,000 (each) (3,00,000)	Rs.1,00,000 (each) (3,00,000)	confirmed
4.	Loss of estate	Rs.15,000	Rs.15,000	confirmed
5.	For funeral expenses	Rs.15,000	Rs.15,000	confirmed
6.	Medical and Transportation	Rs.77,000	Rs.77,000	confirmed
	Tota	Rs. 95,24,592/-	Rs. 83,83,110/-	Reduced by Rs. 11,41,482/-

14.The Civil Miscellaneous Appeal is partly allowed reducing the compensation from Rs.95,24,592/- to Rs.83,83,110/- with interest at the rate of 7.5% p.a.from the date of claim petition till the date of realization. The appellants are directed to deposit the entire modified award amount jointly and severally with accrued interest and costs, less the award amount already deposited, if any,



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within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the major claimants are permitted to withdraw their share amount as per the ratio of apportionment made by the Tribunal along with proportionate accrued interest and cost, less the amount already withdrawn, if any by filing proper petition before the Tribunal. The Tribunal shall deposit the share of the minor Respondent No.2/minor claimant No. 2 in a Fixed Deposit in any one of the Nationalised Bank, which shall be renewed periodically, till he attains majority. The first respondent – father of the minor is permitted to withdraw the interest from the shares of her minor children, viz., Respondent No.2, once in three months from the bank directly. The appellant is directed to pay the additional court fee, if any, to the credit of Registry. Only on such payment being made, Registry is directed to draft the decree in this appeal. No costs. Consequently, connected miscellaneous petition is closed.

[T.K.R.,J.] [P.B.B.,J.]
12.10.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
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To

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(Principal District Judge), Karur.
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- 3.The District Collector,
Karur.



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AND
P.B.BALAJI,J.

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JUDGMENT MADE IN
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