



C.M.A.(MD)No.252 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.252 of 2023

M.Jeya

...Appellant/Petitioner

Vs.

1.M.Manikandan
2.M/s.United India Insurance Company Limited.,
Represented by its Divisional Manager,
Divisional Office, Door No.7-A,
West Veli Street, Madurai-625 001.
...Respondents/Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the quantum of compensation award to the tune of Rs.5,00,000/- that part from the amount of compensation already awarded in 1st December, 2022 passed in M.C.O.P.No.1313 of 2021 on the file of the Motor Accident Claims Tribunal, Madurai/III Additional District Court of Madurai.

For Appellant : Mr.V.Sakthivel

For R2 : Mr.A.Ilango



C.M.A.(MD)No.252 of 2023

JUDGMENT

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This Civil Miscellaneous Appeal has been filed seeking to enhance the compensation awarded by the Motor Accident Claims Tribunal, Madurai/III Additional District Court, Madurai in M.C.O.P.No. 1313 of 2021, dated 01.12.2022.

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)The deceased was travelling as passenger in the first respondent's auto bearing Registration No.TN-57-BJ-2936 on 03.06.2021. The driver of the auto was rash and negligent in driving the auto and in a high speed dashed against the car bearing Registration No.TN-22-DK7137. As a result, the deceased sustained multiple injuries and succumbed to injuries.



C.M.A.(MD)No.252 of 2023

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(ii)at the time of accident, the deceased was aged about 49 years and he he was working as an agricultural coolie and was earning a sum of Rs.15,000/- per month. A case was also registered against the driver of the auto.

(iii) The Insurance Company before the Tribunal took a stand that the first respondent was not holding a valid driving license and had violated the policy condition. FIR has also been lodged against the driver of the auto and hence, the Insurance company disputed the liability.

4. Before the Tribunal, on the side of the claimant, P.W.1 was examined and Ex.P1 to Ex.P7 were marked. On the side of the respondent R.W.1 and R.W.2 were examined and Ex.R1 to Ex.R8 were marked.

5.The tribunal on appreciation of entire evidence available had held that only the auto driver was negligent in driving and awarded the compensation as indicated below:



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C.M.A.(MD)No.252 of 2023

S.No	Description	Amount
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1.	Loss of Income	Rs.10,14,000/-
2.	Transport Charges	Rs. 15,000/-
3.	Funeral Expenses	Rs. 15,000/-
4.	Loss of Estate	Rs. 15,000/-
5.	Loss of consortium	Rs. 40,000/-
	Total	Rs.10,99,000/-

Challenging the same, the present Civil Miscellaneous Appeal has been filed.

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

7.The learned counsel for the second respondent fairly submitted that the notional income fixed by the Tribunal at Rs.7,500/- is very meagre. Since the deceased was an agricultural coolie, the notional income of the deceased at the relevant point of time should be fixed at Rs.13,000/- and 10% future prospects has to be added.



C.M.A.(MD)No.252 of 2023

8.Since the learned counsel for the second respondent has fairly accepted the enhancement as per the legal provisions, the notional income of the deceased is fixed at Rs.13,000/- (Rupees Thirteen Thousand only) and considering the age of the deceased at the time of accident, 10% (13,000+1300=14,500) future prospects is added and 1/3 (14,500-4767=9533) of his income is deducted towards his personal expenses. The claimant will be entitled to the compassionate of Rs. 14,87,148/- (Rupees Fourteen Lakhs Eighty Seven Thousand One Hundred and Forty Eight only). In the result, the claimant is entitled to the compensation as stated below:

S.No.	Description	Amount
1.	Loss of Income	Rs.14,87,148/-
2.	Transport Charges	Rs. 15,000/-
3.	Funeral Expenses	Rs. 15,000/-
4.	Loss of Estate	Rs. 15,000/-
5.	Loss of consortium	Rs. 40,000/-
	Total	Rs.15,72,148/-

13.In fine, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal is enhanced as stated above.



C.M.A.(MD)No.252 of 2023

14.The second respondent/Insurance Company is directed to deposit the compensation amount at the first instance as modified by this Court i.e., Rs.15,72,148/- (Rupees Fifteen Lakhs Seventy Two Thousand One Hundred and Forty Eight only) 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.1313 of 2021, on the file of the Motor Accident Claims Tribunal /III Additional District Court, Madurai within a period of one month from the date of receipt of a copy of this judgment, less the amount, if any already deposited and thereafter, the second respondent/ Insurance Company is entitled to recover the same from the first respondent. On such deposit, the claimant is permitted to withdraw said amount, less the amount if any already withdrawn, by making necessary application before the Tribunal. No costs.

24.03.2023

NCC : Yes/Nos
Index : Yes/No
Internet : Yes/No
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C.M.A.(MD)No.252 of 2023

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To

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



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C.M.A.(MD)No.252 of 2023

N.SATHISH KUMAR, J.

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C.M.A.(MD)No.252 of 2023

24.03.2023