



C.M.A.(MD)No.314 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.314 of 2023

1.Murugaiyan
2.Nagalakshmi
3.Saravanakumar

...Appellants/Petitioners

Vs.

1.Palanichami
2.The Branch Manager,
New India Assurance Company Ltd.,
Trichy.

...Respondents/Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the compensation to the tune of Rs.6,00,000/- in addition to compensation awarded by the Tribunal and set aside the judgment and decree made in M.C.O.P.No.164 of 2019 dated 14.12.2022 by the Motor Accident Claims Tribunal/Special Court for E.C. & NDPS Act Cases, Pudukkottai.

For Appellant : Mr.A.Banumathy
For R2 : Mr.A.Ilango

JUDGMENT

Challenging the quantum fixed by the Motor Accident Claims Tribunal in M.C.O.P.No.164 of 2019, dated 14.12.2022, the present appeal had been filed.



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

3.The brief facts, leading to the filing of the civil miscellaneous appeal, are as follows:-

(i) On 19.11.2018 at about 3.45 p.m., while the deceased was riding his two wheeler in TN-55-BC-1701, keeping his son as pillion rider. The vehicle bearing registration No.TN-55-Y-1615 was parked without any indication in the high way road, due to which, the two wheeler dashed against the vehicle and as a result, the deceased succumbed to injuries.

(ii) The deceased was aged about 25 years and he was an MBA graduate. He was under training at District Employment Office to get the job of Forest Ranger.

(ii)The second respondent before the Tribunal took a stand that the vehicle was parked on the left side of the road with due care and caution due to some repair. At that time, the two wheeler driven by the deceased in a rash and



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negligent manner without adhearing to traffic rules, hit against the vehicle from the behind. The deceased was only negligent in driving the vehicle. Hence, he opposed the claim petition.

4.Before the Tribunal, on the side of the claimants, P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P9 were marked. On the side of the respondents, R.W.1 and R.W 2 were examined and Ex.R1 to Ex.R7 were marked.

5.The Tribunal after analysing the evidence on record had awarded the compensation as follows:

S.No.	Head	Amount
1.	Loss of income and Loss of dependency	Rs.13,60,800/-
2.	Loss of Estate	Rs. 15,000/-
3.	Loss of Consortium	Rs. 40,000/-
4.	Funeral and Transportation Expenses	Rs. 15,000/-
	Total	Rs.14,30,800/-

6.The only ground on which the present appeal is filed is that the Tribunal had not granted any compensation under the head of 'Loss of Consortium' to one of the parents of the deceased.



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7.The learned counsel for the Insurance Company fairly submitted that the Tribunal had only awarded a sum of Rs.40,000/- towards loss of consortium and the same is not valid. The Tribunal ought to have granted another Rs.40,000/- towards loss of consortium and the same may be granted to the claimants.

8.In view of the above submission, a sum of Rs.40,000/- (Rupees Forty Thousand only) is added under the head 'Loss of Consortium'. The compensation awarded under the other heads is confirmed, as the other aspects are not canvassed before this Court. In fine, the claimants are entitled to the following compensation.

S.No.	Head	Amount
1.	Loss of income and Loss of dependency	Rs.13,60,800/-
2.	Loss of Estate	Rs. 15,000/-
3.	Loss of Consortium	Rs. 80,000/-
4.	Funeral and Transportation Expenses	Rs. 15,000/-
	Total	Rs.14,70,800/-



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9.In the result, the compensation awarded by the Tribunal is enhanced and the Civil Miscellaneous Petition is allowed.

10.The Insurance Company is directed to deposit the entire compensation as modified by this Court with interest and costs at the first instance to the credit of M.C.O.P.No.164 of 2019, on the file of the Motor Accident Claims Tribunal / Special Court for E.C. and NDPS Act Cases, Pudukottai 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 Insurance Company is entitled to recover the same from the first respondent. The claimants are entitled to withdraw the award amount as apportioned by the Tribunal by filing necessary application before the Tribunal. No costs.

26.04.2023

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

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To

- 1.The Motor Accident Claims Tribunal
/Special Court for E.C. & NDPS Act Cases, Pudukkottai
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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