



C.M.A.(MD).No.291 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD).No.291 of 2023

and

C.M.P.(MD).No.2869 of 2022

The Branch Manager,
Cholamandalam MS General
Insurance Company Limited,
147, 148, S.J.Complex,
Hindu College Turning,
Chettikulam Junction,
Nagercoil Post,
Agastheeswaram Taluk,
Kanyakumari District.

... Appellant

Vs.

1.Bindhu
2.Minor Vivek
3.Minor Swathika
Minor respondents 2 and 3 represented
through their Mother/Guardian
first respondent herein)
4.Vinil
5.Jibi Melbin
6.United India Insurance Company Limited,
Nagercoil,
Nagercoil Post,
Agastheeswaram Taluk,
Kanyakumari District.

... Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.71 of 2019 on the file of the Motor Accident Claims Tribunal



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(Principal Subordinate Judge), Nagercoil, dated 24.09.2021.

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For Appellant : M/s. K.R.Shivashankari

J U D G M E N T

Challenging the quantum of compensation awarded by the Tribunal in M.C.O.P.No.71 of 2019 on the file of the Motor Accident Claims Tribunal/ Principal Subordinate Judge, Nagercoil, the appellant/Insurance Company has preferred this Civil Miscellaneous Appeal.

2. The brief facts of the case are that the deceased was aged about 44 years at the time of accident and he was welder by profession and earning a sum of Rs.30,000/- per month. On 24.11.2017, at about 11.15 a.m., while he was driving a motorcycle bearing Registration No.TN-75-Q-0085, a Tempo belonging to the fifth respondent bearing Registration No.TN-75-J-0731 came in a rash and negligent manner and dashed against the deceased. As a result, the deceased succumbed to injuries on the way to hospital. Hence, the legal heirs of the deceased filed the claim petition before the Tribunal seeking compensation of Rs.50,00,000/-.



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3. Before the Tribunal, on the side of the claimants, P.Ws.1 and 2 were examined and Exs.P1 to P13 were marked, on the side of the respondents R.Ws. 1 and 2 were examined and Exs.R1 to R3 were marked and Ex.C1 also marked.

4. The Tribunal, after considering the entire evidence adduced, has awarded a sum of Rs.20,68,056/- as compensation in the following manner:

S. No	Description	Amount awarded by the Tribunal
1.	Loss of dependency	Rs.19,18,056/-
2.	Loss of Consortium: (a) Spousal Consortium for the first petitioner (b) Parental Consortium for the second petitioner © Parental Consortium for the third petitioner	Rs.40,000/- Rs.40,000/- Rs.40,000/-
3.	Loss of estate	Rs.15,000/-
4.	Funeral expenses	Rs.15,000/-
	Total	Rs.20,68,056/-

Challenging the said quantum alone, this appeal has been filed.



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5. The only contention raised by the learned counsel for the appellant/Insurance Company is that the Tribunal has fixed the monthly income of the deceased at the rate of Rs.13,700/- per month. According to her, the said amount is higher in the year 2015. Therefore, the notional income fixed by the Tribunal has to be reduced.

6. A perusal of the award reveals that the Tribunal has in fact arrived a notional income on the basis of the Cost of Inflation Index for the year 2013 – 2014 and calculated the notional income as Rs.13,705/- ($\text{Rs.6,500/-} \times 272/129 = \text{Rs.13,705}$) and fixed Rs.13,700/-. Besides that, 25% added towards future prospects. The Tribunal has applied correct multiplier and deducted 1/3rd and awarded the compensation. On perusal of the entire evidence and the manner in which the compensation has been awarded, this Court is of the view that the monthly income arrived by the Tribunal is a reasonable one and in fact, based on the Cost of Inflation Index for the year 2013- 2014. Hence, the quantum of compensation awarded by the Tribunal does not require any interference.

7. In the result, the Civil Miscellaneous Appeal is dismissed and the award of the Tribunal is confirmed. The appellant/Insurance Company is



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directed to deposit the entire award amount within a period of eight weeks from the date of receipt of a copy of this order. On such compliance, the claimants are permitted to withdraw their share as apportioned by the Tribunal. No costs. Consequently, the connected Miscellaneous Petition is closed.

27.03.2023

akv

To

The Motor Accident Claims Tribunal
(Principal Subordinate Judge),
Nagercoil.



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N.SATHISH KUMAR,J.

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