



C.M.A.(MD).No.895 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD).No.895 of 2021

1.Valliammal
2.Palani

... Appellants

-Vs-

1.Abubakkar
2.The General Manager,
Cholamandalam MG General
Insurance Company Limited,
Dare House, 2nd Floor,
No.2, NSC Bose Road,
Chennai 600 001.

3.Rajendran

... Respondents

PRAYER: The Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the order of the Motor Accident Claims Tribunal, Principal District Judge, Ramanathapuram passed in M.C.O.P.No.164 of 2019, dated 25.02.2021 for enhancement of compensation.

For Appellants : Mr.K.Kumaravel

For R2 : M/s. K.R.Shivashankari



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J U D G M E N T

Challenging the award passed by the Motor Accident Claims Tribunal, Principal District Judge, Ramanathapuram in M.C.O.P.No.164 of 2019, dated 25.02.2021, the present appeal has been filed by the claimants for enhancement of compensation.

2. The brief facts leading to the filing of this appeal are as follows:

The deceased was aged about 61 years and washerman by profession. On 05.12.2018, at about 5.00 p.m., when the deceased was riding his cycle in E.C.R. Road, the driver of the offending vehicle drove the bus bearing Registration No.TN 50 R 0011 in a rash and negligent manner and dashed against the cycle. As a result, the deceased succumbed to injuries. Hence, the petitioners filed the claim petition before the Tribunal seeking compensation.

3. The petitioners are the wife and son of the deceased and the third respondent is also the son of the deceased. It is the contention of the Insurance Company before the Tribunal that the deceased suddenly crossed the road. As a result, the accident had happened.



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4. On the side of the petitioners, P.Ws.1 and 2 were examined and Exs.P1 to P18 were marked and on the side of the respondents, no oral and documentary evidence were marked.

5. The Tribunal, on appreciation of the evidence of P.Ws.1 and 2, come to the conclusion that only the driver of the offending vehicle drove the vehicle in a rash and negligent manner and dashed against the deceased. As a result, the deceased succumbed to injuries. The negligent aspect has not been challenged by the Insurance Company. The Tribunal, considering the age of the deceased and his profession, has fixed the notional income of the deceased at Rs.7,500/-. Challenging the same, the present appeal has been filed by the claimants for enhancement of compensation.

6. The learned counsel appearing for the appellants would submit that despite the evidence on the side of the petitioners to prove the profession of the deceased, the Tribunal has fixed only a sum of Rs.7,500/- as notional income, which is very low. According to the learned counsel for the appellant, the



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deceased would have earned more than Rs.12,000/-. Therefore, the same has to be enhanced.

7. The learned counsel appearing for the second respondent/Insurance Company would submit that the Tribunal has fixed the correct multiplier and at the most it could be only Rs.9,000/-, beyond that it will not be enhanced.

8. In the light of the above submissions, now the point for consideration in this appeal is whether the Tribunal is right in fixing the notional income of the deceased at Rs.7,500/-.

9. Admittedly, the deceased was a washerman by profession and Ex.P8 has been marked. Though the definite income of the deceased has not been established, the fact remains that the person involved such a work requires some skill and ordinary people may not be in a position to do such work. Considering the same, this Court is of the view that the deceased would have earned minimum Rs.12,000/- per month.



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10. In such a view of the matter, considering the nature of the job run by the deceased, this Court fixed the notional income of the deceased at the rate of Rs. 10,000/- per month and deducted 1/3rd towards personal expenses (Rs.10,000/- - Rs.3,334/- = Rs.6,666/-). Thus, the total loss of income comes to Rs.5,59,944/- (Rs.6,666/- x 12 x 7). Further, this Court awarded a sum of Rs.80,000/- towards loss of love and affection to the second petitioner as well as the third respondent. In respect of the other aspects, the amount awarded by the Tribunal is confirmed.

11. The modified award amount is as follows:

Description	Amount
Loss of income	Rs.5,59,944/-
Loss of love and affection to the second petitioner and the third respondent	Rs.80,000/-
Loss of consortium	Rs.40,000/-
Loss of estate	Rs.15,000/-
For funeral expenses	Rs.15,000/-
Total	Rs.7,09,944/-



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12. In the result, the Civil Miscellaneous Appeal is allowed. The second respondent / Insurance Company is directed to deposit the entire award amount within a period of one month from the date of receipt of a copy of this judgment with interest at the rate of 7.5% per annum. On such deposit, the first petitioner is entitled to a sum of Rs.3,54,972/- and the second petitioner and the third respondent are entitled to a sum of Rs.1,77,486/- each. No costs.

27.06.2023

akv

To

- 1.The Motor Accident Claims Tribunal,
Principal District Judge,
Ramanathapuram.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR,J.

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