



C.M.A.(MD).No.944 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD).No.944 of 2021

1.Sumathi

2.Santhosh Kumar

... Appellants

Vs.

1.Jeyakumar

2.The Branch Manager,

The United India Insurance Company Limited,

Aranthangi,

Pudukottai District.

... Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 (1) of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.214 of 2018, dated 02.06.2020, by the Motor Accident Claims Tribunal (Additional District Judge), Special Judge, Pudukottai.

For Appellants : Mr.N.Tamil Mani

For R2 : Mr.J.S.Murali



C.M.A.(MD).No.944 of 2021

J U D G M E N T

WEB COPY

The claimants have filed this appeal, not satisfied with the quantum arrived by the Motor Accident Claims Tribunal.

2. The deceased Santhya, aged about 13 years has completed 8th Standard. On 25.12.2016, at about 7.00 a.m., while she was walking in the road near the bus stand to attend the Karathe class, a TATA ACE vehicle bearing Registration No.TN 496284 came in a rash and negligent manner and dashed against the deceased and she succumbed to injuries. Thereafter, a case was also registered against the driver of the offending vehicle in Crime No.511 of 2016 under Section 304(A) of I.P.C. The Insurance Company has filed a counter admitting the insurance, however submitted that the driver of the offending vehicle did not have valid licence. However, the Tribunal has awarded a sum of Rs.5,52,000/- as compensation, by adopting a notional income of Rs.4,000/- per month. Challenging the same, the present appeal has been filed.

3. Despite the name of the first respondent is printed in the cause list, none appeared for him.



C.M.A.(MD).No.944 of 2021

WEB COPY

4. The learned counsel appearing for the appellants would submit that the compensation fixed by the Tribunal is very meagre and the notional income is fixed only at Rs.4,000/-. According to him, even the Division Bench of this Court has fixed the monthly income as Rs.10,000/- per month in a judgment reported in **2021 (1) TN MAC 764 (Iffco-Tokio General Insurance Company Limited vs. V.Raja)**, for the student studying in 12th standard. Therefore, the notional income fixed by the Tribunal is not proper.

5. In the light of the aforesaid submissions, the point arises for consideration in this appeal is whether the Tribunal is right in fixing a sum of Rs.4,000/- per month as notional income. The negligence aspect has not been disputed. The Tribunal has considered the evidence of P.Ws.1 and 2 and the F.I.R., registered against the driver of the offending vehicle and found that the accident was occurred only due to the rash and negligent driving of the driver of the offending vehicle and adopted Rs.4,000/- as monthly income and deducted 50% towards personal expenses and awarded a sum of Rs.5,52,000/- as compensation.



C.M.A.(MD).No.944 of 2021

WEB COPY

6. This Court is of the view that admittedly the deceased was pursuing 8th standard and she met with an unfortunate accident. The Division Bench of this Court, in the case of *Iffco-Tokio General Insurance Company Limited vs. V.Raja* reported in **2021 (1) TN MAC 764**, has fixed the monthly income as Rs. 10,000/- per month for the student studying in 12th standard. Taking note of the fact that the deceased in this case was pursuing 8th standard, this Court has fixed a sum of Rs.7,000/- as monthly income and added 40% towards future prospects. After deducting 50% towards personal expenses, the loss income comes to Rs.4,900/- (Rs.9,800/- (Rs.7,000/-+Rs.2,800/-) - 50%). Thus, the total compensation comes to Rs.10,58,400/- (Rs.4,900/- x 12 x 18 =10,58,400/-).

7. In the result, this Civil Miscellaneous Appeal is allowed. The second respondent/Insurance Company is 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 first claimant is permitted to withdraw the same. No costs.

05.04.2023

akv



WEB COPY



C.M.A.(MD).No.944 of 2021

To

- 1.The Motor Accident Claims Tribunal
(Additional District Judge),
Special Judge, Pudukottai.
- 2.The Branch Manager,
The United India Insurance Company Limited,
Aranthangi,
Pudukottai District.



WEB COPY



C.M.A.(MD).No.944 of 2021

N.SATHISH KUMAR,J.

akv

C.M.A.(MD).No.944 of 2021

05.04.2023