



C.M.A.(MD)No.31 of 2014

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 09.08.2023

Pronounced on : 25.08.2023

CORAM:

THE HON'BLE MR.JUSTICE **K.MURALI SHANKAR**

C.M.A.(MD)No.31 of 2014

1. A.Sundarraaj

2. S.Chandra

... Appellants/
Petitioners

Vs.

1. A.N.Muthaiya

2. The Branch Manager,
United India Insurance Co. Ltd.,
Kumbakonam.

... Respondents/
Respondents

(RI given up)

Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the disallowed portion of decree and the judgment and decree dated 29.03.2007 made in M.C.O.P.No.186 of 2005 on the file of the Motor Accident Claims Tribunal/Principal Sub Court, Kumbakonam.



C.M.A.(MD)No.31 of 2014

WEB COPY

For Appellants : Mr.S.Siva Thilakar
For R1 : Given up
For R2 : Mr.V.J.Kumaravel

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.186 of 2005 dated 29.03.2007 on the file of the Motor Accident Claims Tribunal/Principal Subordinate Court, Kumbakonam.

2. The appellants/claimants, who were awarded with compensation of Rs.1,00,000/- (Rupees One Lakh only) with interest at 7.5% per annum payable by the respondents for the death of their daughter Sathiya, consequent to an accident occurred on 14.07.2004, challenged the quantum of compensation awarded at, by the Tribunal and claimed enhancement of the same.

3. Admittedly, the appellants/claimants are the parents of the deceased Sathiya, who was aged about 4 years at the time of accident.



C.M.A.(MD)No.31 of 2014

WEB COPY

4. The case of the appellants/claimants is that their minor daughter Sathiya was brilliant and they had great hopes about the bright future of the child, that their daughter was very affectionate towards them, that any amount of compensation will not fill up the loss of Sathiya and that therefore, they are claiming compensation of Rs.5,00,000/- (Rupees Five Lakhs only) towards loss of love and affection.

5. It is pertinent to note that the Tribunal has specifically observed that the appellants/claimants were not careful enough to protect their child in a public place, more particularly on the highways, but on considering the loss of precious life of their child, has decided to grant compensation of Rs.75,000/- (Rupees Seventy Five Thousand only), Rs.5,000/- (Rupees Five Thousand only) for funeral expenses, Rs.10,000/- (Rupees Ten Thousand only) for loss of love and affection and Rs.10,000/- (Rupees Ten Thousand only) for transport charges, medical expenses and other incidental expenses, totalling Rs.1,00,000/- (Rupees One Lakh only).

6. The learned counsel appearing for the appellants/claimants would submit that the Tribunal ought to have applied multiplier theory and



C.M.A. (MD) No. 31 of 2014

calculated the compensation, that the Tribunal ought to have considered the future prospects of the deceased Sathiya and that the Tribunal ought to have awarded more compensation.

7. The learned counsel appearing for the appellants/claimants would further contend that the compensation in respect of the minor children shall be computed applying the multiplier method, that as per the judgment of the Hon'ble Supreme Court in catena of cases, the trial Court should have taken the notional income at Rs.24,000/- (Rupees Twenty Four Thousand only) per month and that the amounts awarded under the other heads are also very low.

8. The learned counsel appearing for the second respondent/insurer would submit that generally, for the death of children below the age of 6 years consolidated amount of compensation would be granted and the appellants/claimants were also granted lump sum compensation of Rs.1,00,000/- (Rupees One Lakh only) for the death of 4 years old daughter and that therefore, the question of applying multiplier method for computing income does not arise at all.



C.M.A.(MD)No.31 of 2014

WEB COPY

9. It is pertinent to note that the Hon'ble Supreme Court in catena of decisions has specifically held that compensation in respect of school going children, who died in a motor accident above the age of 6 and upto the age of 15, shall be computed applying the multiplier method and the multiplier to be applied shall be '15', subject to the condition that the compensation shall not go below the prescribed amount in terms of the Second Schedule. But at the same time, for the death of children below the age of 6 years consolidated amount of compensation after offsetting the effect of inflation is to be awarded without applying the multiplier.

10. The learned counsel appearing for the appellants/claimants would submit that the appellants/claimants have restricted the appeal by Rs.1,00,000/- (Rupees One Lakh only) and the said amount may be granted.

11. The learned counsel appearing for the second respondent/insurer has not raised any serious objection, but would submit that in case of granting lump sum compensation, they are not entitled to get any other amount under the other heads.



C.M.A.(MD)No.31 of 2014

WEB COPY

12. Considering the above facts and circumstances of the case and also the fact that the appellants/claimants have lost their 4 years old daughter in the year 2004 and taking note of the submission of the appellants/claimants that they are restricted their claim as stated above, this Court is inclined to award lump sum compensation of Rs.2,00,000/- (Rupees Two Lakhs only) to the appellants/claimants with interest and costs. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs

13. In the result, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.1,00,000/- (Rupees One Lakh only) is hereby enhanced to **Rs.2,00,000/- (Rupees Two Lakhs only)** together with interest at 7.5% per annum and out of the said compensation amount, the appellants/claimants are entitled to get **Rs.1,00,000/- (Rupees One Lakh only)** each. The second respondent/insurer is directed to deposit the modified award amount with interest and costs to the credit of M.C.O.P.No.186 of 2005 on the file of the Motor Accident Claims Tribunal/Principal Subordinate Court, Kumbakonam, after deducting the amount already deposited if any, within a period of four weeks from the



C.M.A.(MD)No.31 of 2014

date of receipt of a copy of this judgment. On such deposit being made, the appellants/claimants are permitted to withdraw their shares together with interest and costs. Parties are directed to bear their own costs.

25.08.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
csm

To:

1. The Motor Accident Claims Tribunal/
Principal Subordinate Court, Kumbakonam.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD)No.31 of 2014

K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
C.M.A.(MD)No.31 of 2014

Dated : 25.08.2023