

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.76 of 2022
and C.M.P.(MD)No.742 of 2022
and C.M.A.(MD)No.297 of 2023

C.M.A.(MD)No.76 of 2022

The Oriental Insurance Company Ltd.,
Through its Branch Manager
Office at Number 121(3),
Raja Shopping Complex,
Opposite to Panchamuga Vinayagar Koil,
Paramathivelu,
Namakkal – 638 182.

... Appellant / Respondent No.2

Vs.

- 1.Shantha
- 2.Muthu Selva Priya
- 3.Muthusamy
- 4.Brundha
- 5.Ramalakshmi
- 6.Minor Harini

(Minor 6th respondent is represented
by her mother and guardian 5th respondent
herein.)

... Respondents 1 to 6 / Petitioners 1 to 6

7.Selvaraju

... Respondent No.7 / Respondent No.7

C.M.A.(MD)No.297 of 2023

1.Shantha

2.Muthu Selva Priya

3.Muthusamy

4.Brundha

5.Ramalakshmi

6.Minor Harini

... Appellants / Petitioners 1 to 6

(Minor 6th appellant is represented
by her mother and guardian 5th appellant
herein.)

Vs.

1.Selvaraju

2.The Oriental Insurance Company Ltd.,
Through its Branch Manager
Office at Number 121(3),
Raja Shopping Complex,
Opposite to Panchamuga Vinayagar Koil,
Paramathivelu,
Namakkal – 638 182.

... Respondents / Respondents

COMMON PRAYER: These Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree order passed in M.C.O.P.No.1514/2016 dated 20.07.2021 on the file of the Motor Accident Claims Tribunal cum II Additional District Judge, Tirunelveli.

C.M.A.(MD)No.76 of 2022

For Appellants	: Mr.C.Jawahar Ravindran
For Respondents	: Mr.T.Selvakumaran for R1 to R6 No Appearance for R7

C.M.A.(MD)No.297 of 2023

For Appellants	: Mr.T.Selvakumaran
For Respondents	: Mr.C.Jawahar Ravindran for R2 No Appearance for R1

COMMON JUDGMENT

Challenging the quantum awarded by the Motor Accident Claims Tribunal cum II Additional District Judge, Tirunelveli, in M.C.O.P.No.1514/2016 dated 20.07.2021, the Insurance Company has filed C.M.A.(MD)No.76 of 2022 and the claimants have filed C.M.A.(MD)No.297 of 2023.

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

3. The brief facts, leading to the filing of these Civil Miscellaneous Appeals, are as follows:-

The deceased Muthukumar was working as an Assistant Engineer in TNEB, Nallur and earning a sum of Rs.68,883/-, per month. On 26.09.2016 at about 10.25 a.m., while he was riding his motorcycle bearing Registration No.TN 28 AX 7247, a JCB, bearing Registration No.TN-88Z-3412, belonged to the first respondent, insured with the second respondent, was carrying a long pole protruding out of the bucket, was driven by its driver in a rash and negligent manner without following the rules. The protruding pole hit the deceased and resulted in his death. A case has been registered in Crime No.159/2016 by Nallur Police against the driver of the JCB. The deceased was aged about 52 years. Hence, the petitioners, being legal heirs of the deceased, have filed the claim petition claiming a sum of Rs.1 Crore as compensation.

4. After finding the negligence on the part of the driver of the JCB and taking note of the income of the deceased, who was employed under TNEB, the Tribunal has awarded the compensation as follows:

S. No	Heads	Amount
1.	Loss of dependency	Rs.70,91,304/-
2.	Loss of love and affection	Rs. 40,000/-
3.	Loss of consortium	Rs. 40,000/-
4.	Funeral expenses	Rs. 15,000/-
	Total	Rs.71,86,304/-

5. The only challenge made by the 2nd respondent - Insurance Company is that the Tribunal has adopted the multiplier in usual manner without adopting the split multiplier.

6. The petitioners have challenged the quantum on the ground that the amount awarded towards loss of love affection is very low and hence, he seeks enhancement of compensation.

7. The only question arise for consideration in this appeal is whether the quantum fixed by the Tribunal is required any modification?

8. The main ground on which the appeal is filed by the Insurance Company cannot be countenanced for the simple reason that the Hon'ble Apex Court in

R.Valli Vs. Tamil Nadu State Transport Corporation Ltd., reported in **2022 (1) TN MAC 289 (SC)** has held that “applying split multiplier i.e., two multipliers one upto the date of retirement and another after retirement, is erroneous and run counter to the judgment of this Court in ***Pranay Sethi***, affirming the judgment in ***Sarala Verma.***”

9. Such view of the matter, this Court does not find any merits in the appeal filed by the Insurance Company. Similarly, the appeal filed by the claimants also deserves to be dismissed for the simple reason that the Tribunal has awarded a sum of Rs.40,000/- towards loss of love and affection and also awarded a sum of Rs. 40,000/- towards loss consortium, which is very reasonable.

10. Accordingly, both the appeals are dismissed and the award passed by the the Motor Accident Claims Tribunal cum II Additional District Judge, Tirunelveli in M.C.O.P.No.1514/2016 dated 20.07.2021, is hereby confirmed.

11. The 2nd respondent / Insurance Company is directed to deposit the entire compensation Rs.71,86,304/- with accrued interest at the rate of 7.5% from the

date of petition till the date of deposit and costs within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount, if any, already deposited. The petitioners are entitled to get the compensation as apportioned by the Tribunal. The petitioners may approach the Tribunal for withdrawal of the amount, for filing necessary application and if such an application is filed, the Tribunal shall pass orders for withdrawal. No Costs. Consequently, connected miscellaneous petition is closed.

24.03.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

vsm

To

1.The Motor Accident Claims Tribunal cum
II Additional District Judge, Tirunelveli.

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

C.M.A. (MD)No.76 of 2022

N.SATHISH KUMAR, J.

vsm

C.M.A.(MD)No.76 of 2022 & 297 of 2023

24.03.2023