



C.M.A.(MD)No.66 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.66 of 2023

M/s.The Oriental Insurance Company,
through its Branch Manager,
having at Door No.5/233,
Gundar Division Street,
Narayanapuram, Kamuthi,
Kamuthi Taluk,
Ramanathapuram District.

...Appellant/2nd respondent

Vs.

1.V.Solaipandi
2.S.Adhilakshmi
3.S.Yogeswaran

...Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order of the Tribunal of MACT cum Additional District Court, Sivagangai made in M.C.O.P.No.211 of 2019 dated 26.04.2022 and allow this appeal with costs.

For Appellant : Mr.C.Jawahar Ravindran

For R1 & R2 : No Appearance



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed challenging the quantum fixed by the Motor Accident Claims Tribunal cum Additional District Court, Sivagangai in M.C.O.P.No.211 of 2019 dated 26.04.2022.

2.The brief facts, leading to the filing of this Civil Miscellaneous Appeal, are as follows:-

(i) For the sake of convenience, the parties are referred to herein, as per their rank before the Trial Court.

(ii) On 15.03.2019 at about 12.45 p.m., the deceased was travelling as a pillion rider in a two wheeler bearing Registration No.TN63-U-5247, which was driven by one Anantharaj from east to west in Kalanivasasl to Kottaiyur main road. At that time, the Eicher vehicle bearing registration No.TN-65-V-6610 coming behind the two wheeler in a rash and negligent manner without blowing horn dashed against the two wheeler. As a result, the deceased was thrown away on the road and succumbed to injuries on 16.03.2019.

(iii) The deceased was 24 years old at the time of accident and he was a bachelor. He was working as a Service Engineer in Kriloskar Generator Service



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Company and he was earning a sum of Rs.30,000/- per month. Hence, a claim petition has been filed by the mother and father of the deceased.

(iv) The defence taken by the Insurance Company before the tribunal is that the accident was occurred only due to the negligent driving of the rider of the motor cycle.

3. Before the Tribunal on the side of the claimants P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P17. On the side of the respondent no oral documentary evidence has been marked.

4.The tribunal on appreciation of entire evidence available on record, particularly, the evidence of P.W.2, eyewitness of the accident had held that the driver of the Eicher vehicle was responsible for the accident and awarded the compensation as follows:

S.No.	Particulars	Amount
1.	Loss of dependency	Rs.18,14,400/-
2.	Loss of estate	Rs. 16,500/-
3.	Loss of Filial Consortium (2*44,000)	Rs. 88,000/-
4.	Funeral Expenses	Rs. 16,500/-
	Total	Rs.19,35,400/-



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Challenging the same, the present Civil Miscellaneous Appeal has been filed by the Insurance Company,

5.I have heard the learned counsel appearing on either side and also perused the materials available on record.

6.The learned counsel appearing for the Insurance Company submitted that the tribunal has failed to consider Ex.P.11, salary certificate and fixed the salary of the deceased at Rs.12,000/- per month. Further, the quantum fixed by the tribunal for the death of the bachelor aged about 25 years is very excessive and prays for allowing this appeal.

7. In view of the above submission, now the point arises for consideration in this appeal is:

(1) Whether the quantum fixed by the tribunal is proper in the eye of law?

8.Perusal of the award passed by the tribunal reveals that the age of the deceased was fixed as 25 years as per the postmortem report and same could not



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be found faulted. Though the notional income of Rs.30,000/- per month was claimed by the claimants, the tribunal did not agree the same and fixed the notional value at Rs.12,000/- by taking note of the fact that the deceased was a mechanical engineer and he was working as Service Engineer in Krilsokar Generator Service Company. Further, the tribunal applying the age of the deceased had fixed future prospects at 40% as per the dictum laid down in the *National Insurance Company Ltd., vs. Pranay Sethi and Others* [CDJ 2017 SC page 1220] and also adopted the multiplier 18, which is applicable to the age of 25 and arrived at compensation.

9.Perusal of the entire evidence and the method of compensation arrived by the Tribunal, this court is of the view that the notional income of the deceased fixed by the Tribunal at Rs.12,000/- per month is well reasonable and the same does not suffer from any infirmity.

10.In view of the above discussions, this Civil Miscellaneous Appeal is dismissed as the compensation granted by the tribunal is just and reasonable and does not require any interference.



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11.The appellant is directed to deposit the entire compensation amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.211 of 2019, on the file of the Motor Accident Claims Tribunal cum Additional District Court, Sivagangai within a period of one month from the date of receipt of a copy of this judgment, less the amount, if any already deposited. On such deposit, the claimants are permitted to withdraw the said amount as apportioned by the tribunal, less the amount if any already withdrawn, by making necessary application before the Tribunal. No costs.

15.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To

- 1.The Motor Accident Claims Tribunal
cum Additional District Court, Sivagangai
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

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