



CMA(MD).No.707 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.04.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.707 of 2017

and

C.M.P(MD) No.7494 of 2017

The Branch Manager,
M/s. United India Insurance Company Ltd.,
61/2694, 1st Floor,
South Main Veethi,
Thanjavur,
Thanjavur District.

....Appellant/2nd Respondent

Vs.

1. Jamuna Rani
2. Jayaprakesh
3. Minor Sooriyaprakash

(Minor R3 is represented by his Mother and
Guardian first respondent herein) Respondents 1 to 3/Petitioners

4. The District Panchayat Secretary,
District Panchayat Office,
Panagal Building,
Thanjavur, Thanjavur District.4th Respondent/1st Respondent

(No claim is made against 4th Respondent.
Hence, notice is given up)



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PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the fair and decretal, order dated 12.04.2016 made in M.C.O.P.No.865 of 2015, on the file of the Motor Accident Claims Tribunal, II Additional District Court, Thanjavur.

For Appellant : Mr.B.Rajesh Saravanan

For Respondents : Mr.N.Tamilmani
for R1 to R3
: R4 – given up

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the award passed by the Motor Accident Claims Tribunal, II Additional District Court, Thanjavur, in M.C.O.P.No. 865 of 2015 primarily on the ground of quantum.

2. According to the claimants, the deceased was an agriculturist having monthly income of Rs.25,000/- (Rupees Twenty Five Thousand only) and he was aged about 50 years, at the time of accident.

3. The Tribunal has taken into consideration the annual income of the deceased at Rs.2,00,000/- (Rupees Two Lakhs only) and added 15%



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towards future prospectus and deducted 1/3rd towards personal expenses and applying multiplier of “13”, arrived at a total compensation of Rs.19,93,420/- (Rupees Nineteen Lakhs Ninety Three Thousand Four Hundred and Twenty only) towards loss of dependency. The Tribunal has awarded a sum of Rs.1,00,000/- (Rupees One Lakh only) towards loss of consortium, a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) towards funeral expenses, another sum of Rs.1,00,000/- (Rupees One Lakh) towards loss of love and affection and another sum of Rs.25,000/- (Rupees Twenty Five Thousand only) towards Loss of Estate. Totally a sum of Rs.22,43,420/- (Rupees Twenty Two Thousand Forty Three Thousand Four Hundred and Twenty only) was awarded by the Tribunal. The said award is under challenge in the present appeal.

4. According to the learned counsel appearing for the appellant, admittedly, the deceased being an agriculturist and the claimants have inherited the said agricultural land and literally there is no loss of income due to the death of the deceased person. Therefore, the Tribunal was not right in awarding a sum of Rs.19,93,420/- (Rupees Nineteen Lakhs Ninety Three Thousand Four Hundred and Twenty only) towards loss of



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dependency. He further contended that the Tribunal ought not to have awarded separately for loss of consortium and loss of love and affection each a sum of Rs.1,00,000/- (Rupees One Lakh only). Hence, he prayed for allowing the appeal to the extent as stated above.

5. Per contra, the learned counsel appearing for the respondents 1 to 3/Claimants relied upon the judgment of the Honourable Supreme Court reported in (2003) 7 SCC 484 (*State of Haryana and another Vs.Jasbir Kaur and others*) and contended that the Honourable Supreme Court has taken into consideration a sum of Rs.3,000/- (Rupees Three Thousand only) as the monthly income of an agriculturist and the accident has taken place in the year 1999 and has proceeded to fix the compensation. Therefore, according to the learned counsel appearing for the appellant even assuming that the lands are inherited by the claimants, the judgment of the Hon'ble Supreme Court in Paragraph No.8 has held that the claimants may be required to engage persons to look after the agriculture. Considering the said fact that the Honourable Supreme Court had fixed the loss of monthly income at Rs.3,000/- (Rupees Three Thousand only) per month.



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6. The learned counsel appearing for the respondents 1 to 3/ claimants had further contended that no amount has been awarded under the head of Transport Expenses and the same also should be taken into consideration while considering the appeal on merits.

7. I have carefully considered the submissions made by the learned counsel on either side.

8. Admittedly, the deceased was an agriculturist and he died at the age of 50 years. The learned counsel appearing for the appellant/ Insurance Company, after relying upon the judgment of our High Court reported in **2009(1) T.A.C 157 (Mad) (National Insurance Company Limited, Madurai Vs. K.Amutha and others)** had contended that when the agricultural lands are inherited by the claimants, literally there is no loss of income for the claimants. However, in the judgment of the Honourable Supreme Court reported in **(2003) 7 SCC 484 (State of Haryana and another Vs.Jasbir Kaur and others)**, after Considering the fact that the lands are being inherited by the claimants, has fixed the loss of income due to the death of agriculturist at Rs.3,000/- (Rupees Three



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Thousand only) per month. In the said judgment it had been contended that the accident has taken place in the year 1999. Therefore, this Court is of the view that the notional loss of income due to the death of agriculturist should be taken at Rs.9,000/- (Rupees Nine Thousand only) for the accident that is happened in the year 2015. In view of the judgment of the Hon'ble Supreme Court reported in **2017 (16) SCC 680 (Insurance Company Limited Vs. Pranay Sethi and others)** the future prospectus would be added at 15%. By adding 15% to Rs.9,000/- (Rupees Nine Thousand only) it comes to Rs.10,350/- (Rupees Ten Thousand Three Hundred and Fifty only). After deducting 1/3rd towards personal expenses, it comes at Rs.6,900/- (Rupees Six Thousand and Nine Hundred only) and the same would be fixed as the monthly income of the deceased person. The deceased had died at the age of 50 years, the correct multiplier is “13”. Therefore, the total loss of dependency would be a sum of Rs.10,76,400/- (Rupees Ten Lakhs Seventy Six Thousand and Four Hundred only).

9. The deceased had left behind three legal heirs, viz., the first claimant being the wife, the second and third claimants are the sons of



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the deceased person. Therefore, each one of them would be entitled to a sum of Rs.40,000/- (Rupees Forty Thousand only) towards loss of love and affection. Therefore, a sum of Rs.1,20,000/- (Rupees One Lakh Twenty Thousand only) would be awarded under the said head. The award of Rs.1,00,000/- (Rupees One Lakh only) under the head of loss of consortium another sum of Rs.1,00,000/- (Rupees One Lakh only) under the head of loss of love and affection are hereby set aside. A sum of Rs.10,000/- (Rupees Ten Thousand only) is awarded towards Transport Expenses. The amount awarded under the head of funeral expenses and loss of estate are hereby confirmed.

10. Considering the above said facts, the dependants of the deceased are entitled to compensation under the following heads:

Loss of Dependency	: Rs.10,76,400/-
Loss of love and affection (Rs.40,000x3)	: Rs. 1,20,000/-
Funeral Expenses	: Rs. 25,000/-
Loss of Estate	: Rs. 25,000/-
Transport Expenses	: <u>Rs. 10,000/-</u>
Total	: Rs.12,56,400/-



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11. The award of Rs.22,43,420/- is hereby modified and reduced to a sum of Rs.12,56,400/- (Rupees Twelve Lakhs Fifty Six Thousand and Four Hundred only). The award is sustained under the other heads. The 1st claimant/wife shall be entitled to Rs.6,00,000/- (Rupees Six Lakhs only) and the 2nd and 3rd claimants will each be entitled to Rs.3,28,200/- (Rupees Three Lakhs Twenty Eight Thousand and Two Hundred only). The Insurance Company has already deposited 50% of the award amount. The balance award amount shall be deposited by the Insurance Company within a period of eight weeks from the date of receipt of a copy of this order. The entire award amount shall carry interest at the rate of 7.5% from the date of claim petition.

12. With the above said observations, this Civil Miscellaneous Appeal is allowed to the extent as stated above. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

11.04.2023

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

- 1.The Motor Accident Claims Tribunal
II Additional District Court,
Thanjavur.
2. The District Panchayat Secretary,
District Panchayat Office,
Panagal Building,
Thanjavur, Thanjavur District
- 3.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Judgement made in
C.M.A(MD)No.707 of 2017

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