



C.M.A(MD)No.921 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.10.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
AND
THE HONOURABLE MR.JUSTICE P.B.BALAJI**

C.M.A(MD)No.921 of 2017

- 1.S.Maheswari
- 2.S.Arunraj
- 3.Minor.Karthik
- 4.Minor.Ashtalakshmi
- 5.Gandhimathi

(Minor petitioners are represented
by their mother guardian and next
friend Maheswari) :Appellants/Petitioners

.VS.

- 1.P.Kanaharaj
- 2.National Insurance Company Ltd.,
Jerome Building,
Fort Station Road,
Trichy. : Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree made in M.C.O.P.No.540 of 2013 on the file of the Motor Accident Claims Tribunal (Special District Court) Thanjavur, dated 17.12.2014.

For Appellants	:Mr.N.Tamilmani
For R1	:No appearance
For R2	:Mr.D.Sivaraman



C.M.A(MD)No.921 of 2017

JUDGMENT

WEB COPY

[Judgment of the Court was made by **RMT.TEEKAA RAMAN.,J.**]

This Civil Miscellaneous Appeal is directed against the judgement and award made in M.C.O.P.No.540 of 2013, dated 17.12.2014, on the file of the Motor Accident Claims Tribunal (Special District Court) Thanjavur and to set aside the judgment and award, consequently enhance the compensation.

2.The claim Petitioners are the appellants seeking enhancement of compensation.

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

4.The legal representatives of the deceased Selvaraj have filed the claim petition claiming compensation of Rs.75,00,000/- for the death of the said person in the road accident on 23.11.2012. The Tribunal has awarded a sum of Rs.38,18,800/-. Aggrieved over the same, the present appeal has been filed.



C.M.A(MD)No.921 of 2017

5.The factum of accident, manner of the accident are not in dispute and the same is hereby confirmed.

6.On quantum of compensation, both parties are heard.

7. The trial Court has rendered a finding that the offending vehicle was insured with the second respondent and the same is hereby confirmed.

8. Based upon the Ex.P7- the salary certificate, the tribunal has taken a monthly salary at Rs.29,000/- as the deceased was working as Special Sub Inspector of Police. On the date of accident i.e., on 23.11.2012 the age of the deceased was 48 years. The correct multiplier is '13', but the Tribunal has taken the multiplier as '10'. The learned counsel for the appellants submitted that the deceased was working as a coach in basket ball and no document has been produced to that effect, hence, we have no hesitation to reject the said plea. Following the **2017(2) TNMAC 609 (SC) [National Insurance Co. Ltd., v. Pranay Sethi]** 30% has to be added as future prospects and 1/4th should be deducted for dependents. Split multiplier adopted by the tribunal is now held to



C.M.A(MD)No.921 of 2017

be not in accordance with law. Accordingly, the pecuniary loss sustained by the claimants are rearranged as under:-

9.Rs.29,000 as monthly salary + Rs.8,700/- (30% future prospects) = 37,700/-. $Rs.37,700 \times 12 \times 13 \times \frac{3}{4} = 44,10,900/-$.
Therefore, the loss of income would be Rs.44,10,900/-

10. The medical expenses as per the medical bills Rs.20,000/- awarded by the Tribunal is confirmed. Loss of consortium for the wife is reduced to Rs.40,000/- as per the **Pranay Sethi** judgment. For loss of love and affection to the claimants 2 to 4 is enhanced to Rs.75,000/- each. Loss of love and affection to the 5th appellant is enhanced from 10,000/- to Rs.25,000/-. This court awarded a sum of Rs.10,000/- for transportation, Rs.25,000/- awarded for funeral expenses.

11.Thus, the total compensation payable to the claimant is arrived at Rs.47,55,900/- (Rupees Fortyseven Lakhs Fiftyfive thousand nine hundred only). The rate of interest is reduced from 90% to 7.5% per annum, which is the rate of interest prevailing as on date.



C.M.A(MD)No.921 of 2017

WEB COPY

12.The award of the Tribunal is modified as follows:

S. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or modified or enhanced or granted
1.	Loss of income	Rs.35,38,800	Rs.44,10,900	enhanced
2.	Loss of Consortium and love and affection to the 1 st appellant	Rs.75,000/-	Rs.40,000	modified
3.	Loss of Love and affection to the appellants 2 to 4	Rs.1,50,000	Rs.2,25,000 (Rs.75,000/- each)	enhanced
4.	Loss of love and affection to the 5 th appellant	Rs.10,000	Rs.25,000	enhanced
5.	Medical expenses	Rs.20,000	Rs.20,000	confirmed
6.	Transportation	-	Rs.10,000	Awarded
7.	For Funeral expenses	Rs.25,000	Rs.25,000/-	Confirmed
	Total	Rs. 38,18,800/-	Rs. 47,55,900	Enhanced by Rs.9,37,100



C.M.A(MD)No.921 of 2017

WEB COPY

13.The Civil Miscellaneous Appeal is partly allowed enhancing the compensation from Rs.38,18,800/- to Rs.47,55,900/- with interest at the rate of 7.5% p.a.from the date of claim petition till the date of realization. The second respondent Insurance Company is directed to deposit the modified enhanced award amount with accrued interest and costs, less the award amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. The first claimant is entitled to a sum of Rs.13,05,900/-, the claimants 2 to 4 are entitled to Rs.29,25,000/- (9,00,000/- each + 75,000/- each) and the fifth claimant is entitled to Rs.5,25,000/-. On such deposit being made, the claimants 1,2 & 5 are entitled to withdraw their share amount along with proportionate accrued interest and cost, less the amount already withdrawn, if any. The Tribunal shall deposit the share of claimants 3 & 4, who are minor claimants, in a Fixed Deposit in any one of the Nationalised Bank, which shall be renewed periodically, till they attain majority. The first appellant – mother of the minors is permitted to withdraw the interest from the shares of her minor children, viz., appellants 3 & 4, once in three months from the bank directly. The appellants are directed to pay the



C.M.A(MD)No.921 of 2017

additional court fee, if any, to the credit of Registry. Only on such payment being made, Registry is directed to draft the decree in this appeal. No costs.

[T.K.R.,J.] [P.B.B.,J.]
03.10.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
am

To

The Motor Accident Claims Tribunal
(Special District Court) Thanjavur.



WEB COPY



C.M.A(MD)No.921 of 2017

RMT.TEEKAA RAMAN,J.
AND
P.B.BALAJI,J.

am

JUDGMENT MADE IN
C.M.A(MD)No.921 of 2017

03.10.2023