



C.M.A.(MD)No.98 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27.07.2023

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**  
AND  
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

C.M.A.(MD)No.98 of 2017  
amd CMP(MD).Nos.999 of 2017 and  
CMP(MD).Nos.2057 and 2061 of 2022

1.S.Krishnasamy

2.K.Manimegalai

3.S.Nandini

4.S.Parkavi

5.S.Keerthana

...Appellants

(Minor appellants 4 and 5 declared as major  
and guardianship of their mother/3<sup>rd</sup> appellant  
is discharged vide Court order dated 27.07.2023)

/Vs./

1.A.Sagayaraj

2.The United India Insurance Company Ltd.,  
Represented by its Divisional Manager

1/9



C.M.A.(MD)No.98 of 2017

South Street, Thanjavur

...Respondents

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PRAYER:- Appeal - filed under Section 173 of the Motor Vehicles Act, 1989, to set aside the award dated 12.01.2010 passed by the Additional District Court cum Motor Accident Claims Tribunal, Thanjavur in MCOP.No.715 of 2006 so far as it relates to the quantum of loss of income and to fix Rs.20,00,000/- towards loss of income in addition to the amount already fixed.

|                |                                                         |
|----------------|---------------------------------------------------------|
| For Appellants | : Mr.P.Sesubalan Raja                                   |
| For R1         | : No appearance                                         |
| For R2         | : Mr.I.Robert Chandrakumar<br>For Mr.G.Prabhu Rajadurai |

### JUDGMENT

(Judgment of the Court was made by **R.VIJAYAKUMAR, J.**)

The present appeal has been filed by the claimants seeking enhancement of compensation of the award passed by the Motor Accident Claims Tribunal, Thanjavur in MCOP.No.715 of 2006. The claimants are the parents, wife and minor children of one K.Sundaramoorthy who had passed away in motor accident that



C.M.A.(MD)No.98 of 2017

occurred on 09.05.2006.

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2. According to the claimants, the deceased was working as an Assistant Engineer in TWAD Board, Government of Tamil Nadu and he was aged about 44 years at the time of his death.

3. The claimants have contended that while the deceased was driving a two wheeler, a lorry belonging to the first respondent was driven in a rash and negligent manner and dashed against the two wheeler, in which, the deceased sustained multiple injuries and he passed away. The claimants have prayed for a sum of Rs.50,00,000/- as compensation.

4. The owner of the lorry who was arrayed as the first respondent had filed a counter disputing the rashness and negligence on the part of the driver of the lorry and also the quantum of compensation. The insurer of the lorry had filed a counter disputing the manner of accident and the quantum of compensation.

5. The Tribunal after considering the oral and documentary evidence submitted on either side, had arrived at a finding that the



C.M.A.(MD)No.98 of 2017

accident had taken place only due to the rash and negligent driving on the part of the driver of the lorry. The Tribunal had relied upon Exhibit P12-salary certificate, to arrive at a finding that the deceased was drawing a sum of Rs.21,861/- per month as salary and he was about to retire on 30.06.2019. The Tribunal has finally awarded a sum of Rs.28,14,255/-. Aggrieved over the award, the present appeal has been filed by the claimants.

6. According to the learned counsel for the claimants, the deceased was working as an Assistant Engineer in TWAD Board and he was drawing a salary of Rs.21,861/- at the time of his death. After the award was passed, the pay scale of the deceased was revised as per VI pay commission with effect from 01.01.2006. As per new pay scale, the deceased would be drawing a salary of Rs.27,720/- with effect from 01.01.2006, that is four months prior to the date of the accident. The revised pay scale was implemented by the proceedings of the Executive Engineer, TWAD Board, Thanjavur dated 23.02.2010 which is subsequent to the passing of the award. Hence,



C.M.A.(MD)No.98 of 2017

the claimants have filed CMP(MD).No.999 of 2017 to receive the said communication relating to pay fixation based on VI pay commission as additional evidence.

7.The learned counsel for the respondent/Insurance Company has no objection for receiving the said proceedings as additional evidence. This Court is inclined to allow the said application as additional evidence. Accordingly, CMP(MD).No.999 of 2017 stands allowed.

8.If the revised monthly salary of the deceased is taken as Rs.27,720/-, the award of the Tribunal under the head of loss of income would get modified as follows:

|                                                                        |               |
|------------------------------------------------------------------------|---------------|
| (i)The revised monthly salary of the deceased as per VI pay commission | Rs.27,720/-   |
| (ii).Annual Income                                                     | Rs.3,32,640/- |
| (iii).After deducting 1/3 <sup>rd</sup> towards his personal expenses  | Rs.2,21,760/- |
| (iv) 30% of actual salary towards future income<br>(Rs.3,32,640 x 30%) | Rs. 99,792/-  |



C.M.A.(MD)No.98 of 2017

(v) Total loss of income

Rs.3,21,552/-

(vi) Since the age of the deceased is 44, multiplier of 15 is applied.

(15x Rs.3,21,552/-)

Rs.48,23,280/-

(vii) The amount awarded by the Tribunal under other conventional heads

Rs. 60,000/-

Total Compensation

Rs.48,83,280/-

9. In view of the above said deliberations, the award of the Tribunal namely Rs.28,14,255/- is hereby enhanced to Rs.48,83,280/-.

10. It is seen from the records that appellants 4 and 5 herein/Claimants 4 and 5 were minors then and attained majority during the pendency of this Civil Miscellaneous Appeal. Therefore, the guardianship of their mother Mrs.S.Nandini is discharged. Accordingly, CMP(MD).Nos.2057 and 2061 of 2022 are allowed.

11. The Insurance Company is directed to deposit the enhanced compensation of Rs.48,83,280/- with 7.5% interest per annum from the date of claim petition till the date of deposit, less the amount already deposited, if any, to the credit of the claim petition within a period of



C.M.A.(MD)No.98 of 2017

eight weeks from the date of receipt of a copy of this judgment. On such deposit, 3rd claimant shall be entitled to 75%, 4<sup>th</sup> and 5<sup>th</sup> claimants shall be each entitled to 11%. Claimants 1 and 2 shall be each entitled to 1.5% of the award amount. The claimants are permitted to withdraw the entire amount with interest by filing an appropriate application before the Tribunal.

12.In view of the above said discussion, this Civil Miscellaneous Appeal is partly allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are allowed.

**[A.S.M.J.,] & [R.V.J.,]**  
**27.07.2023**

NCC :Yes/No  
Index :Yes/No  
Internet :Yes  
msa



C.M.A.(MD)No.98 of 2017

WEB COPY To:

- 1.The Motor Accident Claims Tribunal/Additional District Judge  
Thanjavur
- 2.The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai.



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C.M.A.(MD)No.98 of 2017

**DR.ANITA SUMANTH, J.**  
**AND**  
**R.VIJAYAKUMAR, J.**

msa

Judgment made in  
C.M.A.(MD)No.98 of 2017  
and CMP(MD).Nos.999 of 2017 and  
CMP(MD).Nos.2057 and 2061 of 2022

Dated:  
27.07.2023