



C.M.A.(MD)No.1183 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

AND

THE HONOURABLE MR.JUSTICE P.B.BALAJI

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- 1.S.Selvi
- 2.Anthoni Mariya Silambarasi
- 3.Arul Rajiv
- 4.Angel King

...Appellants/Petitioners

Vs.

- 1.Balaji
- 2.Raja Sulochana
- 3.The Manager,
Cholamandalam MS General,
Insurance Company Ltd.,
New Millenium Complex,
Nos.3 and 4, 1st Floor,
Dindigul High Road,
Kalavasal, Madurai-625 010.

...Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decreetal order dated 09.11.2021 made in M.C.O.P.No.64 of 2018 on the file of the Motor Accident Claims Tribunal (Sub Court), Devakottai insofar as they relate to quantum of compensation awarded by the Tribunal.



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For Appellants : Mr.N.Tamilmani
For R1 and R2 : Mr.C.M.Mari Chelliah Prabhu
For R3 : Ms.Sivasankari

JUDGMENT

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

The claimants, who are the appellants herein, seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal (Sub Court), Devakottai in M.C.O.P.No.64 of 2018 dated 09.11.2021, has filed the present appeal.

2.The factum of the accident, rash and negligent driving on the part of the driver of the first respondent vehicle and the fact that the first respondent vehicle is insured with the second respondent insurance company are not in dispute. Accordingly, the findings of the trial Court on the above points are hereby confirmed.

3.On the point of quantum of compensation, the learned counsel for the appellants/claimants contended that the deceased was the Teacher by profession.



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He voluntarily retired from service and drawing a sum of Rs.25,067/- as pension.

Ex.P20, the last bill for pension is also marked to that effect. Further, the deceased was privately employed and getting a sum of Rs.10,000/- as monthly salary as per Ex.P23. The pension amount is pecuniary loss and hence, the Tribunal ought to have have treated the pension amount as income. He also contended that the compensation for parental consortium to the daughter and son of the deceased and loss of estate was not granted.

4.The learned counsel for the third respondent/Insurance Company relied upon the judgment dated 16.02.2022 made by one of us (Honourable Mr.Justice RMT.Teekaa Raman) in C.M.A.(MD)No.1201 of 2014 and contended that in view of the law laid down by the Hon'ble Apex Court, the LIC amount, PF amount, Pension amount, Family Pension receivable on the death will not be treated as an income since even otherwise they are entitled to while the period is over or on natural death. The pension receivable will not be treated as income and hence, she prays for dismissal of this appeal.

5.Heard the submissions made on either side and perused the materials placed on record.



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6.Considering the submission made on either side, now the point arise for consideration in this appeal is:

(a)Whether the pension given by the Government can be treated as income or not?

7.The above point is no longer *res integra* in view of the judgment of the Hon'ble Supreme Court reported **2020 (1) TNMAC 182(SC) [National Insurance Company v. Birender and others']**, the Hon'ble Apex Court has considered the multiplier to be adopted when a person who is about to retire or has few years to service before retirement in that context, the Hon'ble Apex Court has held that multiplier as prescribed in **Sarla Verma's** case has to be applied in toto and separate multiplier cannot be adopted and further it is held therein that the pension amount which is likely to fall on his retirement after few months or few years as the case may be, not a criteria after the constitutional decision of the Hon'ble Apex Court in **Pranay Sethi's** case and hence in view of the law laid down by the Hon'ble Apex Court in the above three decisions, the LIC amount, PF amount, Pension amount, Family Pension receivable on the death will not be treated as an income since even otherwise they are entitled to while the period is over or on natural death.



8.Hence, we are bound by the judgment of the Hon'ble Supreme Court that the LIC amount, PF amount, Pension amount, Family Pension receivable on the death will not be treated as income since even otherwise they are entitled to while the period is over or on natural death. Hence, we hold that the first point raised by the learned counsel for the appellants/claimants stand negated.

9.We find that the trial Court has failed to grant the compensation for parental consortium to the son and daughters of the deceased and loss of estate. Hence, we are inclined to grant the same. Accordingly, the children of the deceased are entitled to parental consortium of Rs.40,000/- each (Rupees Forty Thousand only) and loss of estate is fixed at Rs.15,000/- (Rupees Fifteen Thousand only).

10.In fine, the claimants are entitled to the following compensation:

S.No	Heads	Amount
1.	Loss of income	Rs. 9,36,000/-
2.	Loss of consortium	Rs. 40,000/-
3.	Transportation charges	Rs. 15,000/-
4.	Loss of parental consortium	Rs. 1,20,000/-
5.	Funeral expenses	Rs. 15,000/-
6.	Loss of estate	Rs. 15,000/-
	Total	Rs.11,41,000/-



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11.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is enhanced to the extent stated above.

12.The Insurance Company is directed to deposit the entire compensation amount i.e., Rs.11,41,000/- (Rupees Eleven Lakhs Forty One Thousand only) with accrued interest and costs to the credit of M.C.O.P.No.64 of 2018, on the file of the Motor Accident Claims Tribunal (Sub Court), Devakottai within a period of eight weeks from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimants are permitted to withdraw the said amount, less the amount, if any already withdrawn, as apportioned by the Tribunal by making necessary application before the Tribunal. No costs.

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

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

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To

The Motor Accident Claims Tribunal
(Sub Court), Devakottai

Copy to

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

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