



C.M.A.(MD)No.408 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.408 of 2023

and

C.M.P.(MD)No.4966 of 2023

The Branch Manager,
Reliance General Insurance Company Ltd.,
D.No.403, 3rd Floor,
Sakthi Groups Marketing Building,
Perundurai Road,
Erode District.

...Appellant/2nd Respondent

Vs.

1.G.Sundarammal
2.L.Palaniammal
3.K.Muniammal
4.Lakshmi
5.G.Laksmanaperumal
6.Madhavi

...Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree dated 23.01.2018 passed in M.C.O.P.No.47 of 2016 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Virudhunagar District at Srivilliputhur.

For Appellant : Mr.K.Gokul
For R2 to R5 : Mr.R.Karunanithi



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JUDGMENT

This Civil Miscellaneous Appeal is filed challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal /Chief Judicial Magistrate Court, Virudhunagar at Srivilliputhur in M.C.O.P.No.47 of 2016 dated 23.01.2018.

2.For the sake of convenience, the parties herein are referred to as per their rank before the Tribunal.

3.The brief facts, leading to the filing of the claim petition, are as follows:-

(i)The deceased was aged about 65 years. He was travelling in an auto along with four others belonging to the first respondent on 13.06.2009 in Srivilliputhur to Sivakasi road at Senkulam Villaku from west to east. The driver of auto drove the vehicle in a rash and negligent manner, due to which the auto capsized. As a result, the passengers in the auto sustained injuries and the deceased was succumbed to injuries.



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(ii)A case was also registered in Crime No.491 of 2009. The deceased was working as a weaver and earning a sum of Rs.3,000/- per month, hence, the claim petition was filed.

(ii)The second respondent before the Tribunal disputing the liability took a stand that the Auto was not registered at the time of accident. Further, the Auto did not have any valid RC, FC and permit at the time of accident.

4. Before the tribunal, on the side of the claimants P.W.1 was examined and Ex.P1 to Ex.P4 were marked. On the side of the respondents R.W.1 and R.W.2 were examined and Ex.R1 and Ex.R2 were marked.

5.The Tribunal considering the evidence of P.W.1, found that only the driver of auto was rash and negligent in driving the vehicle and awarded the compensation as follows:

S.No.	Head of Compensation	Award amount
1.	Loss of Love and Affection	Rs.1,00,000/-
2.	Loss of income, estate and expectation of life	Rs.1,57,000/-
3.	Funeral Expenses	Rs. 15,000/-
4.	Loss of Consortium	Rs. 40,000/-
	Total	Rs.3,12,500/-



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6.The quantum fixed by the Tribunal is only challenged in this appeal.

The learned counsel for the appellant would submit that the quantum fixed by the Tribunal is on the higher side. Therefore, the same has to be reduced.

7.On perusal of the entire award, it is made clear that the Tribunal had fixe the notional income of the deceased only at Rs.2,500/- per month and applied the multiplier '7', applicable to the age of 65 and arrived at a just and reasonable compensation. Hence, the same does not warrant any interference.

8.In view of the above, I do not find any merits in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed.

9.The Appellant is directed to deposit the entire compensation amount as awarded by the Tribunal with interest and costs to the credit of M.C.O.P.No.47 of 2016, on the file of the Motor Accident Claims Tribunal /Chief Judicial Magistrate Court, Srivilliputhur within a period of **one week** 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 same as apportioned by the Tribunal,



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less the amount if any already withdrawn, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

17.04.2023

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

- 1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court,
Srivilliputhur, Virudhunagar.
- 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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