



C.M.A.(MD)Nos.185 & 186 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)Nos.185 & 186 of 2023
and C.M.P.(MD)Nos.2043 & 2045 of 2023

Divisional Manager,
M/s.The United Indian Insurance Company Ltd.,
Divisional Office,
LIC Divisional Building,
Jeevan Prakash Ground Floor,
No.39, Gandhiji Road,
Thanjavur – 613 001.

... Appellant in
both C.M.As.

Vs.

1.Pavunraj

2.Minor.Rajesh

3.Minor. Anusiya

(2 and 3 minor respondents are represented
through their guardian / 1st respondent)

4.Sebasthiyan

5.Backiyam

6.James

(Respondents R6 given up)

.. Respondents in
both C.M.As.



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COMMON PRAYER: These Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.Nos.83 & 84 of 2021, dated 07.12.2021 on the file of the Motor Accident Claims Tribunal cum Principal District Judge, Pudukottai.

For Appellant
(In both C.M.As)

: Mr.M.Sakundala Devi

For Respondents
(In both C.M.As)

: Mr.G.Kandhavadivelan
for Mr.P.Ganapathi Subramanian
for R1 to R5

COMMON JUDGMENT

Challenging the quantum fixed by the Motor Accident Claims Tribunal cum Principal District Judge, Pudukottai in M.C.O.P.Nos.83 and 84 of 2021, dated 07.12.2021, the present two appeals have been filed by the Insurance Company.

2. For the sake of convenience, the parties are arrayed as per their own ranking before the Tribunal.



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3. The brief facts, leading to the filing of this Civil Miscellaneous

Appeal, are as follows:-

The petitioners 1 to 3 are the sons and daughter and the petitioners 4 and 5 are the parents of the deceased viz., Paneerselvam. The deceased Paneerselvam, who was the father of the petitioners 1 to 3, was aged about 42 years and he was doing centring work and earning a sum of Rs.25,000/- per month. Their mother was doing Milk vending business and also gardening work and she has also earning a sum of Rs.22,500/- per month. Both the deceased were travelling in a TVS Scooty on 02.11.2020, to purchase certain things for festival and while returning back from market, from south to north direction, at about 3.20 hours, a Car belonging to the first respondent, bearing Registration No.TN-21-AS-9979, came in a rash and negligent manner and dashed against the two wheeler in which both the deceased were travelling. As a result, both the husband and wife succumbed to injuries and a case has also been registered in Crime No.584 of 2020, on the file of the Gandharvakkottai Police Station against the driver of the Car. Hence, the petitioners have preferred two different claim petitions in M.C.O.P.Nos.83 and 84 of 2021.



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4. Before the Tribunal, it is the defence of the first respondent in both the petitions that the rider of the two wheeler viz., the deceased Paneerselvam without showing any signal, suddenly turned right and crossed the road, which resulted in an accident. The second respondent/ Insurance company took a stand that it is an accident between two vehicles and it is also their stand that the deceased suddenly crossed the road without any signal. Hence, opposed the claim.

5. On the side of the claimants, 2 witnesses were examined as P.W.1 and P.W.2 and 20 documents were marked as Ex.P1 to P.20. On the side of the respondents, there was no oral and documentary evidence.

6. The Tribunal after considering the oral and documentary evidence has found that the driver of the Car was responsible for the accident, which resulted the death of the husband and wife and the Tribunal taking note of the fact that the accident took place in the year 2020, adopted the Cost of Inflation Index for the year 2018-19 and fixed the notional income of the deceased at Rs.14,108/- and after making necessary deduction, has awarded the compensation as follows:



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(i) The compensation awarded in M.C.O.P.No.83 of 2021 are as follows:

S.No	Heads	Amount
1.	Loss of income	Rs.22,22,640/-
2.	Loss of Estate	Rs. 15,000/-
3.	Funeral Expenses	Rs. 15,000/-
4.	Filial Consortium	Rs. 40,000/-
	Total	Rs.22,92,640/-

(ii) The compensation awarded in M.C.O.P.No.84 of 2021 are as follows:

S.No	Heads	Amount
1.	Loss of income	Rs.21,16,800/-
2.	Loss of Estate	Rs. 15,000/-
3.	Funeral Expenses	Rs. 15,000/-
4.	Filial Consortium	Rs. 40,000/-
	Total	Rs.21,86,800/-

Challenging the quantum of compensation, both these appeals have been filed.

7. The only ground on which, a challenge is made in these appeals is that the Tribunal is not right in following the Cost of Inflation Index to arrive notional income. Therefore, it is the contention of the learned counsel appearing for the 2nd



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respondent/ Insurance Company that the notional income has to be fixed by the Court and not by adopting the Cost of Inflation Index.

8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. It is relevant to note that the accident took place in the year 2020 and both the deceased viz., Paneerselvam and Selvi @ Arockiamary, were aged about 42 and 40 years respectively, even if the minimum wages is applied for an ordinary person, who has no avocation, at the relevant point of time, the monthly income would be more than Rs.12,000/-. It is relevant to note that the deceased Paneerselvam was doing centring work, which has a high demand in the construction field. It is the common sense that even in such work, the minimum payment would be more than Rs.1,000/- per day and even 20 days he was engaged for such work, he will be earning for more than Rs.20,000/-. Even the wife of Paneerselvam viz., Selvi @ Arockiamary, who was aged about 40 years, was engaged in milk vending work and also gardening work. Therefore, this Court is of the view that she would also earn Rs.15,000/- per month easily. Therefore, the Tribunal fixing the monthly income at Rs.14,108/- by adopting the Cost of Inflation Index does not appear to be excess and it is only just and reasonable.



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10. In view of the above, I do not find any merit in these appeals.

Accordingly, both the appeals are dismissed and the award passed by the Motor Accident Claims Tribunal cum Principal District Judge, Pudukottai in M.C.O.P.Nos.83 and 84 of 2021, dated 07.12.2021, is confirmed. The 2nd respondent-Insurance Company is directed to pay the entire compensation as awarded by the Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of the judgment. No costs. Consequently, connected miscellaneous petitions are closed.

06.04.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

vsm

To

- 1.The Motor Accident Claims Tribunal cum Principal District Judge,
Pudukottai..
- 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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