



C.M.A.No.2832 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2832 of 2021

and

C.M.P.No.16214 of 2021

The Oriental Insurance Co. Ltd.,
3rd Party Claim HUB,
32/312, 13th Street, Phase II,
Sathuvacheri, Vellore.

... Appellant

Vs.

1.V.Rani
2.Suresh
3.Saravanan
4.S.Kirubakaran

... Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Award and Decree dated 17.03.2021 made in M.C.O.P. No.195 of 2018 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Vaniyambadi.

For Appellant : Mr.J.Chandran

For Respondents : Ms.M.Malar
for R1 to R3

R4 - No Appearance

**JUDGMENT**

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This appeal has been filed by the Insurance Company, questioning the quantum of compensation awarded by the Tribunal under the impugned award. The Tribunal under the impugned award directed the appellant Insurance Company to pay a total compensation of Rs.9,16,000/- to the respondent Nos.1 to 3 / claimants for the death of one Venugopal as a result of an accident caused by a vehicle insured with the appellant.

2. The details of the compensation awarded by the Tribunal under the impugned award are as follows:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>
Loss of dependency	7,84,056
Love and affection and Consortium	1,00,000
Funeral expenses	15,000
Loss of estate	15,000
Attender charges	2,000
Total	9,16,056
Rounded of to	9,16,000

3. The deceased was a farmer, aged 65 years at the time of the



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accident which happened in the year 2018. The avocation, age and the date of the accident are not disputed by the appellant Insurance Company. However, the Tribunal has erroneously fixed the notional monthly income of the deceased at Rs.14,000/- though the deceased was admittedly aged 65 years at the time of the accident and the respondent Nos.1 to 3 / claimants also failed to produce any documentary evidence to support their claim that the deceased was earning Rs.14,000/- at the time of the accident.

4. For a person aged 65 years and that too when no documentary evidence has been produced and the year of the accident is 2018, this Court is of the considered view that the notional monthly income of the deceased ought have been fixed at Rs.10,000/- instead of Rs.14,000/- erroneously fixed by the Tribunal. Accordingly, the notional monthly income of the deceased is modified to Rs.10,000/- instead of Rs.14,000/- erroneously fixed by the Tribunal.

5. Excepting for the said modification, the compensation awarded by the Tribunal under various other heads, viz., funeral expenses, loss of love and affection and consortium, loss of estate and attender charges cannot be

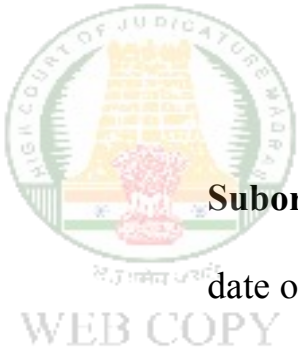


considered to be excessive as claimed by the appellant / Insurance Company.

6. For the foregoing reasons, the compensation payable by the appellant Insurance Company is re-worked in the following manner:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>	<i>Amount awarded by this Court in Rs.</i>
Loss of dependency	7,84,056	5,60,000
Love and affection and Consortium	1,00,000	1,00,000
Funeral expenses	15,000	15,000
Loss of estate	15,000	15,000
Attender charges	2,000	2,000
Total	9,16,056	6,92,000
Rounded of to	9,16,000	6,92,000

7. In the result, this Civil Miscellaneous Appeal is **partly allowed** by reducing the award amount from **Rs.9,16,000/-** to **Rs.6,92,000/-**. The appellant insurance company is directed to deposit the reduced award amount of **Rs.6,92,000/-**, after deducting the amount already deposited, if any, together with interest at the rate of **7.5%** per annum from the date of the claim petition till the date of deposit and cost to the credit of **M.C.O.P. No.195 of 2018** on the file of the **Motor Accidents Claims Tribunal,**



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Subordinate Judge, Vaniyambadi, within a period of **four weeks** from the date of receipt of a copy of this judgment.

8. The respondent Nos.1 to 3 /claimants are permitted to withdraw the said amount, once it is deposited by the appellant /Insurance Company, by filing an appropriate application before the Tribunal. On such application being made, the Tribunal shall transfer the amount lying to the credit of **M.C.O.P. No.195 of 2018** to the bank account of the respondent Nos.1 to 3 /claimants directly through NEFT / RTGS, within a period of **one week** thereafter. No costs. Consequently, the connected miscellaneous petition is closed.

18.06.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

1. The Motor Accidents Claims Tribunal, Subordinate Judge, Vaniyambadi.
2. The Section officer, Record Section, High Court of Madras.



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ABDUL QUDDHOSE. J.,

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