



CMA.Nos.2163 & 2164 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 14.02.2024	Pronounced on 22.04.2024
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.Nos.2163 & 2164 of 2021

C.M.A.No.2163 of 2021

1.Vadivukarasi (38), W/o.Abrahamlingan

2.Abrahamlingam (45), S/o.Duraisamy

The 1st and 2nd Petitioners are
residing at D.No.2A, Abirami Garden
Chinnathiruppathi Post, Salem 636 008

... Appellants

Vs.

1.Venkatachalam, S/o.Palani

No.27, Sathiya Colony, Thailanoor

Salem 636 122

2.The National Insurance Co. Ltd.,

Royal Towers, 185/1, Meyyanoor Road

Opp:ARRS Multiplex Theatre

Salem 636 004

... Respondents



CMA.Nos.2163 & 2164 of 2021

Prayer:

Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the order in MCOP.No.1613 of 2017, dated 17.03.2021 on the file of the Motor Accident Claims Tribunal/Special District Judge, Salem.

For Appellants : Mr.C.Paraneedharan

For Respondents : Mr.N.Kolandaivelu (for R1)
Mr.D.Bhaskaran (for R2)

C.M.A.No.2164 of 2021

- 1.Arunagiri (60), S/o.Mariyappan
- 2.Vadivukarasi (38), W/o.Abrahamlingan
- 3.Lakshmi Devi (35), W/o.Rameshkannan
- 4.Venkatesh (31), S/o.Arunagiri
- 5.Rathai (31), W/o.Mathan Mohan

The 1st, 2nd, 4th & 5th Petitioners are

residing at D.No.2-A, Abirami Garden

Chinnathiruppathi Post, Salem 636 008

The 3rd Petitioner is residing at D.No.26(1)

Mariyamman Kovil Street, Tiruchengode Taluk

Namakkal District.

... Appellants

Vs.

1.Venkatachalam, S/o.Palani
No.57, Sathiya Colony, Thailanoor
Salem 636 122



CMA.Nos.2163 & 2164 of 2021

2.The National Insurance Co. Ltd.,
Royal Towers, 185/1, Meyyanoor Road
Opp:ARRS Multiplex Theatre
Salem 636 004

3.Sampathkumar, S/o.Venkatapathy
D.No.11, Velavan Nagar, Near P.R.Thirumana Mandapam
Maniyakaranpalayam, Ganapathy, Coimbatore 641 006

4.The United India Insurance Co. Ltd.,
Divisional Office – 2, First Floor
Peramanur Main Road, Peramanur,
Salem 636 007

... Respondents

Prayer:

Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the order in MCOP.No.1617 of 2017, dated 17.03.2021 on the file of the Motor Accident Claims Tribunal/Special District Judge, Salem.

For Appellants : Mr.C.Paraneedharan

For Respondents : Mr.N.Kolandaivelu (for R1)

Mr.D.Bhaskaran (for R2)

Mr.S.Arunkumar (for R4)

COMMON JUDGMENT

CMA.No.2163 of 2021 has been filed against the order in MCOP.No.1613 of 2017, dated 17.03.2021 on the file of the Motor Accident



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Claims Tribunal/Special District Judge, Salem. CMA.No.2164 of 2021 has been filed against the order in MCOP.No.1617 of 2017, dated 17.03.2021 on the file of the Motor Accident Claims Tribunal/Special District Judge, Salem.

2.The claim Petitioners are the Appellants herein. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The factum of the accident and manner of the accident & rash and negligence on the part of the offending vehicles are not under challenge in this Appeal and therefore, the findings of the Tribunal that the National Insurance Company, who is the insurer of Maxi Cab bearing Reg. No.TN 30 AQ 4745 is liable to pay compensation to the claim Petitioners in MCOP.No.1613 of 2021 and the National Insurance Company, who is the insurer of Maxi Cab bearing Reg. No.TN 30 AQ 4745 & United India Insurance Company, who is the insurer of the lorry bearing Reg. No.TN 36 T 5474 are liable to pay compensation at the ratio of 50:50 to the first claim Petitioner in MCOP.No.1617 of 2021 are hereby confirmed.



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4.During trial, on the side of the claim Petitioner, PW1 to PW4 were examined, Ex.P.1 to Ex.P.37 were marked and on the side of the Respondents, none was examined and no document was marked.

5.Heard the learned counsel for the claim Petitioner and the learned counsel for the National Insurance Company and the learned counsel for the United India Insurance Company.

6.CMA.No.2163 of 2021

6(a).On perusal of Ex.P.9/mark statement of the minor deceased, the Tribunal rightly fixed the monthly income of the deceased at Rs.7,000/-. Further the Tribunal added 40% towards futures prospects of the deceased, deducted 50% towards personal expenses of the deceased and adopted the right multiplier of 18 as per the Sarla Verma's case and calculated a sum of Rs.10,88,400/- towards loss of dependency. The same is just and proper and hence the same is hereby confirmed.

6(b).Apart from the above, the Tribunal has awarded a sum of Rs.15,000/- each towards loss of estate and funeral expenses. The same are also hereby confirmed. The Tribunal has not awarded any amount towards loss of



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love and affection to the claim Petitioners. Hence, a sum of Rs.40,000/- each is awarded towards loss of love and affection to the claim Petitioners.

<i>S.No.</i>	<i>Heads</i>	<i>Amount (Rs.)</i>
1	Loss of dependency	1058400
2	Loss of estate	15000
3	Funeral expenses	15000
4	Loss of love affection	80000
	Total	1168400

6(c).In total, the claim Petitioner is entitled to a sum of Rs.11,68,400/- (Rupees eleven lakh sixty eight thousand and four hundred only). The Tribunal has awarded 7.5% interest. The same is also hereby confirmed.

7.CMA.No.2164 of 2021

7(a).Based upon Ex.P.16/post mortem certificate, the Tribunal assessed the age of the deceased at 55 years old. The Tribunal has fixed the monthly income at Rs.6,000/-, the same is enhanced to Rs.8,000/-. The Tribunal has added 10% towards future prospects and deducted 1/3rd towards personal expenses of the deceased and adopted '11' as multiplier. The same are hereby confirmed. Hence, the loss of dependency is reassessed as follows:

$$[(8000 + 10\% \text{ of } 8000) \times 12 \times 11 \times 2/3 = \text{Rs.}7,74,400/-]$$



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7(b).The Tribunal has awarded a sum of Rs.15,000/- each towards loss of estate and funeral expenses. The same is hereby confirmed. The Tribunal has not awarded any amount towards loss of love and affection to the claim Petitioners 2 to 5. Eventhough the claim Petitioners 2 to 5 are major and married children of the deceased, they are entitled to get a sum of Rs.40,000/- each towards loss of love and affection. Further, a sum of Rs.40,000/- is awarded to the first claim Petitioner towards consortium.

<i>S.No.</i>	<i>Heads</i>	<i>Amount (Rs.)</i>
1	Loss of dependency	774400
2	Loss of estate	15000
3	Funeral expenses	15000
4	Loss of love affection	160000
5	Loss of consortium	40000
	Total	1004400

7(c).In total, the claim Petitioners are entitled to a sum of Rs.10,04,400/- (Rupees ten lakh four thousand and four hundred only). The Tribunal has awarded 7.5% interest. The same is also hereby confirmed.

8.In fine(CMA.No.2163 of 2021),



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(i) Appeal stands partly allowed, enhancing the award amount from Rs.10,88,400/- to Rs.11,68,400 /- to the extent indicated above, with 7.5% interest per annum. No Costs.

(ii) the Insurance Company is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, all the claim Petitioners/Appellants are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The claim Petitioners are permitted to withdraw their entire share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal.

(iv) the claim Petitioners are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

8.In fine (CMA.No.2164 of 2021),



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(i) Appeal stands partly allowed, enhancing the award amount from Rs.6,10,800/- to Rs.10,04,400 /- to the extent indicated above, with 7.5% interest per annum. No Costs.

(ii) the Insurance Companies/2nd and 4th Respondents are directed to deposit the enhanced award amount before the Tribunal at the ratio of 50:50, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the first claim Petitioner is entitled to get a sum of Rs.8,44,400/- with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal. The claim Petitioners 2 to 5 are entitled to get a sum of Rs.40,000/- each with proportionate interest and costs, by filing necessary application before the Tribunal.

(iv) the claim Petitioners are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

22.04.2024



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Index : Yes/No

Neutral citation : Yes/No

Speaking Order/Non-Speaking Order

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To

The Special District Judge

Motor Accident Claims Tribunal

Special District Judge Court

Salem.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in
C.M.A.No.2163 & 2164 of 2021

Dated: 22.04.2024