



C.M.A.Nos.2088, 2087 & 2077 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.Nos.2088, 2087 & 2077 of 2022

- 1.Bakiyammal
- 2.Muniraj
- 3.Siva
- 4.Lakshmi

...Appellant in CMA.No.2088 of 2022

- 1.Munikrishnan
- 2.Kanthamma
- 3.Bettamma
- 4.Bettappa
- 5.Lakshmi
- 6.Archana

...Appellant in CMA.No.2087 of 2022

- 1.Rathinamma
- 2.Mahalakshmi
- 3.Punniyavathi

...Appellant in CMA.No.2077 of 2022

Vs



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1.V.Anbarasan

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2.The Branch Manager,
National Insurance Company Limited,
Branch Office, No.88F, By-pass Road,
Dharmapuri 636701.

... Respondents in all appeals

Common Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount and fix the entire liability on 2nd respondent made in judgment and decree dated 06.07.2021 made in MCOP.Nos.983, 938 and 941 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court for Motor Accident Claims Cases, Krishnagiri.

For Appellant
in all appeals : Mr.S.P.Yuvaraj

For Respondent
in all appeals : Mr.P.Dinesh Kumar for R1
Mr.J.Micheal Visuvasam for R2



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COMMON JUDGMENT

These civil miscellaneous appeals have been filed to enhance the compensation awarded vide the judgment and decree dated 06.07.2021 made in MCOP.Nos.983, 938 and 941 of 2019.

2. The learned counsel for the appellants would submit that on 07.05.2019, while Munirathinammal, Thimmakka and Jayamma was travelling in the Mahindra Pickup Vehicle bearing Registration No.TN-24-AM-5617 and returning to their village from Naduvanpalli, a private bus bearing Registration No.TN-24-AE-0669 came in a rash and negligent manner and dashed against the said vechile, due to the which they were died during treatment at the Hospital. Considering all the aspects the Tribunal had awarded the following compensation:



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CMA.No.983 of 2019:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Dependency	3,78,000
2	Loss of Estate	15,000
3	Funeral Expenses	15,000
4	Loss of Consortium	1,60,000
	Total	5,68,000

CMA.No.938 of 2019:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Dependency	3,78,000
2	Loss of Estate	15,000
3	Funeral Expenses	15,000
4	Loss of Consortium	2,00,000
	Total	6,08,000

CMA.No.941 of 2019:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Dependency	3,36,000
2	Loss of Estate	15,000
3	Funeral Expenses	15,000
4	Loss of Consortium	1,20,000
	Total	4,86,000



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3. Further, he would submit that in the present appeals, the accident was occurred in the year 2019 and the notional income of the deceased persons were fixed as a sum of Rs.6,000/- by the Tribunal, which is on lower side. Hence, he requests this Court to enhance the same. Further, he would submit that though the accident was occurred due to the rash and negligent driving of the driver of the private bus, the Tribunal had wrongly fastened 10% liability on the driver of the vehicle, in which the claimants were traveled, since, he had not possessed a valid driver license. Hence, he prays this Court to set aside the same.

4. In reply, the learned counsel appearing for the insurance company would submit that the claimants in all the appeals are individuals and they are not entitled to file the present appeals. Hence, he prays this Court to dismiss the same.

5. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.



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6. In the present case, this Court is not inclined to interfere as to whether the claimants are entitled to file appeal or not. Further, the issue with regard to the fixation of notional income is concerned, considering the year of accident and the age of the deceased persons at the time of accident (Munirathinammal aged about 67 years, Thimmakka aged about 63 and Jayamma aged about 65 years), this Court is of the view that the notional income of a sum of Rs.6,000/- fixed by the Tribunal is just and reasonable. Since there is no illegality in the award passed by the Tribunal, the same stands confirmed.

7. Further, as far as the fixation of 10% contributory negligence towards the driver of the Mahindra Pickup vehicle is concerned, since the Tribunal came to a conclusion that the cause of accident is due to the rash and negligent driving of the private bus, no contributory negligence can be fixed against the driver of the Mahindra Pickup vehicle for not possessing the valid driver's license and the same is liable to be set aside. Accordingly, the contributory negligence of 10% fixed against the driver of the Mahindra Pickup vehicle is set aside and the entire liability is fastened against the driver and owner of the



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private bus and hence, ultimately the insurance company/2nd respondent is liable to pay the entire compensation.

8. In the result, these Civil Miscellaneous Appeals are partly allowed and the 2nd respondent is directed to deposit the respective award amount along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.Nos.983, 938 and 941 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court for Motor Accident Claims Cases, Krishnagiri. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the respective bank accounts of the claimants by way of RTGS, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimants or application for withdrawal from the claimants, whichever is earlier. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

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To:

The Motor Accident Claims Tribunal,
Special District Court, Krishnagiri.

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