



C.M.A.No.209 of 2024

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.No.209 of 2024

and

C.M.P.No.2152 of 2024

The Branch Manager,
M/s.Cholamandalam MS General Insurance Company Limited,
II Floor, K.K.Tower,
Vaishnavi Nagar,
(Next to Hosur Dharge Luke),
NH-7 Main Road,
Hosur 635 109.

...Appellant

Vs

1.Kalavathi
2.Minor Gokul Sappriya,
Represented by her mother/1st respondent
3.Ponnusamy
4.Gangamma
5.M.Palani

... Respondents



C.M.A.No.209 of 2024

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 20.12.2016 passed in MCOP.No.776 of 2015 by the learned Motor Accident Claims Tribunal, In the Court of Special District Judge for MCOP Cases, Krishnagiri.

For Appellant : Mr.J.Michael Visuvasam

For Respondent : Mr.S.P.Yuvaraj for R1 to R4

JUDGMENT

This civil miscellaneous appeal has been filed to set aside the judgment and decree dated 20.12.2016 passed in M.C.O.P.No.776 of 2015.

2. The learned counsel for the appellants would submit that on 02.12.2014, while one Pushparaj was proceeding by riding his motor cycle bearing Registration No.TN 70 L 3229 at JJ Nagar Munishwaran Temple, a Tempo bearing Registration No.TN 29 S 7386 came in a rash and negligent manner and dashed against him, due to which he was died on the way to the Government Hospital. Considering all the aspects the Tribunal had awarded the



C.M.A.No.209 of 2024

following compensation:

WEB COPY

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Earnings	13,82,400
2	Transport to Hospital	5,000
3	Funeral Expenses	25,000
4	Loss of Consortium	1,50,000
5	Loss of Love and Affection	2,00,000
	Total	17,62,400

3. Further, he would submit that the challenge in this appeal is with regard to the compensation awarded under the heads viz., loss of consortium and loss of love and affection, for which the Tribunal had awarded a sum of Rs.1,50,000/- and Rs.2,00,000/- respectively. Since the aforesaid amount are on higher side, he would contend that the same has to be re-determined.

4. In reply, the learned counsel appearing for the respondent would submit that in the present case, while awarding compensation towards loss of earnings, the Tribunal is supposed to have added the future prospects to the notional income of the deceased and in such case, there is no doubt that the loss of earnings itself would come around not less than a sum of Rs.17 Lakhs.



C.M.A.No.209 of 2024

However, the same was not done by the Tribunal. Therefore, he would fairly suggest this Court to confirm the compensation awarded by the Tribunal.

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

6. In the present case, it appears that the Tribunal is supposed to have added the future prospects to the notional income of the deceased while awarding compensation towards loss of earning, in which case, the loss of earning alone would come around not less than a sum of Rs.17 Lakhs. However, in the present case, the Court below had failed to do so. Hence, in such case, the amount awarded by the Tribunal to the claimants for a sum of Rs.17,62,400/- should be considered as the compensation, which was awarded under all the heads, since if this Court re-determine the loss of earning by adding future prospects, the compensation would be much more.

7. In view of the above, since this Court does not find any fault in the compensation awarded by the Tribunal and since there is no merits in the



C.M.A.No.209 of 2024

present appeal, the same is liable to be dismissed.

WEB COPY

8. In the result, this Civil Miscellaneous Appeal is dismissed and the appellant/insurance company is directed to deposit the entire 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.No.776 of 2015 on the file of the Motor Accident Claims Tribunal, Special District Court for MCOP Cases, Krishnagiri. Upon such deposit, the share of the minor 2nd respondent is directed to be deposited in any one of the Nationalised Bank till she attains majority and the 1st respondent being the mother of the minor is permitted to withdraw the accrued interest once in three months for the welfare of the minor. Thereafter, the Tribunal is directed to transfer the share of the respondents 1, 3, 4 and 5 to their respective bank accounts 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 claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

02.02.2024



C.M.A.No.209 of 2024

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order
nsa



WEB COPY



C.M.A.No.209 of 2024

KRISHNAN RAMASAMY,J.

nsa

To:

The Motor Accident Claims Tribunal,
Special District Court for MCOP Cases, Krishnagiri.

C.M.A.No.209 of 2024
& C.M.P.No.2152 of 2024

02.02.2024

7/7