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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1641 of 2013

1.E.Petchiammal

2.E.Shunmugapriyan

3.E.Karthikeyan

... Appellants

Vs.

1.V.Shunmuganathan

2. The Rayal Sundaram Insurance Company Limited,
Through its Manager,
Office at Tiruvandrum Road,
Vannarpettai, Tirunelveli-3.

3.The Oriental Insurance Company Limited,
Tirunelveli-I through its Manager,
Office at Sivasakthi Complex,
S.N.High Road,
Tirunelveli.

... Respondents

(No Relief claimed-given up)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to enhance the quantum of compensation as prayed for in this appeal by modifying the award and decree dated 20.12.2012 passed in M.C.O.P.No.435 of 2012 on the file of the Motor Accidents Claims Tribunal, III Additional District and Sessions Court, Tirunelveli.



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For Appellant : Mr.A.Anandasamy
for Ms.S.Leema Mary
For R-1 : Dismissed
For R-2 : M/s.B.John Seema
for M/s.S.Srinivasa Ragavan
For R-3 : Given Up

JUDGEMENT

This Civil Miscellaneous Appeal is filed to modify the award and decree dated 20.12.2012 passed in M.C.O.P.No.435 of 2012 on the file of the Motor Accidents Claims Tribunal, II Additional District and Sessions Court, Tirunelveli.

2. The claimants have preferred this Appeal. It is a case of fatal. The contention of the claimants is that the Tribunal has fixed meagre compensation and the Tribunal has not taken any proper evidence to come to the said conclusion. Further contention is that the deceased was a retired Teacher and receiving pension. After retirement, he was earning Rs.6,000/- p.m., from taking tuition.

3. The accident had occurred on 15.11.2011. Since the deceased was earning a sum of Rs.6,000/- from taking tuition there cannot be loss to loss



to the claimants. Therefore, the Tribunal has rightly fixed a sum of Rs.4,500/-as monthly income. It is just and fair fixation. As far as loss of consortium is concerned, this Court is granting a sum of Rs.1,20,000/- [Rs.40,000/- x 3 claimants]. As far as funeral expenses are concerned, this Court is fixing a sum of Rs.15,000/-. The compensation granted under the other heads are hereby confirmed.

4. Accordingly, the claimants are entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	By this Court	
1.	For loss of income	Rs.1,80,000/-	Rs.1,80,000/-	confirmed
2.	For loss of consortium	Rs. 20,000/-	Rs.1,20,000/-	enhanced
3.	For funeral expenses	Rs. 10,000/-	Rs. 15,000/-	enhanced
Total		Rs. 2,10,000/-	Rs.3,15,000/-	

From the total compensation of Rs.2,10,000/- this Court is enhancing a sum of Rs.3,15,000/-as compensation.

5. Accordingly, this Civil Miscellaneous Appeal is partly allowed. This Court is enhancing the compensation of Rs.3,15,000/-from the compensation granted by the Tribunal Rs.2,10,000/-. The Insurance company is



directed to deposit the entire compensation amount, within a period of 8 weeks from the date of receipt of a copy of the order with 7.5% interest from the date of filing the petition till the date of realization along with Costs, less the amount already deposited. On such deposit claimants are permitted to withdraw their share as apportioned by the Tribunal. The claimants are directed to pay the balance Court fee or the same shall be deducted from the amount before disbursing.

6. With these observations, this Civil Miscellaneous Appeal is partly allowed. No costs.

10.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accidents Claims Tribunal,
II Additional District and Sessions Court, Tirunelveli.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Order made in
C.M.A(MD)No.1641 of 2013**

10.07.2024