



C.M.A(MD)No.1689 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.06.2024**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1689 of 2013

and

MP(MD)No.1 of 2013

National General Insurance Company Limited,
Divisional Office II,
No.16, State Bank Road,
Coimbatore-641 018.

... Appellant

Vs.

1.Fatima
2.Chandrasahsan
3.Seethalakshmi
4.Murugan
5.R.Kathirvel
6.Shanthi

7.Bharathi AXA General Insurance Company Limited,
1st Floor, The Ferns Icon Survey No. 28,
Next to Akme Ballet, Doddanekundi,
Off outer Ring Road,
Bangalore-560 037.

... Respondent

(Notice to R5 to R7 may be dispensed with, since
they are not necessary parties for deciding the appeal)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor
Vehicles Act 1988, against the judgment and decree in M.C.O.P.No.692 of 2012,



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dated 02.01.2013, on the file of the Motor Accidents Claims Tribunal, IV
Additional District Court, Tirunelveli.

For Appellant : Mr.J.S.Murali
For R1 to R4 : No appearance
R5 to R7 : Dispensed with

JUDGMENT

The Civil Miscellaneous Appeal is filed by the Insurance Company.

2.It is a case of fatal. The contention of the Insurance Company is that the Tribunal has fixed 8% interest which ought to be fixed as 7.5%.

3. After considering the submissions of the Insurance Company, this Court is of the considered opinion that the issue is already settled in several judgments. As far as the interest is concerned, the issue also settled by fixing 7.5% as statutory interest. Therefore, this Court is reducing the interest from 8% to 7.5%. The compensation granted under the other heads are confirmed.

4.As far as loss of love and affection is concerned, the Tribunal had granted only Rs.20,000/-, but it has been held in several cases that the amount ought to be fixed as Rs.40,000/-. It is seen that the 1st and 2nd claimants are parents and the 3rd



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and 4th claimants are brother and sister of the deceased. Since the said brother and sister are major and they are not dependent and they are not entitled to any compensation. Therefore, the claimants 1 and 2 / parents of the deceased are entitled to Rs.40,000/- each and totally, Rs.80,000/- is granted under the head of loss of love and affection.

5.The modified award amount granted by this Court is tabulated under:

S1. No.	Heads	Award granted by Tribunal	Award granted by this Court	Enhanced / Confirmed / Reduced
1.	Funeral Expenses	Rs.10,000/-	Rs.10,000/-	Confirmed
2.	Loss of Love and Affection	Rs.20,000/-	Rs.80,000/- (Rs.40,000/-*2)	Enhanced
3.	Loss of Income	Rs.4,75,000/-	Rs.4,75,000/-	Confirmed
4.	Medical Expenses	Rs.51,650/-	Rs.51,650/-	Confirmed
	Total	Rs.5,56,650/-	Rs.6,16,650/-	Enhanced

Thus, the total compensation granted by the Tribunal is enhanced from Rs. 5,56,650/- to Rs.6,16,650/- by this Court.

6.The appellant Insurance Company is directed to deposit Rs..6,16,650/- (Rupees Six Lakh Sixteen Thousand Six Hundred and Fifty only) with interest at



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the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their equal shares with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal.

7. With the above said observations, the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

06.06.2024

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

Tmg



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To

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- 1.Motor Accident Claims Tribunal,
IV Additional District 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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