



C.M.A(MD)No.42 of 2013
and
Cross. Objection (MD)No.1 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :18.07.2024

CORAM

**JUSTICE N. SESHASAYEE
and
JUSTICE P.VADAMALAI**

C.M.A(MD)No.42 of 2013
and
M.P(MD)No.1 of 2013
and
Cross Objection(MD)No.1 of 2024

C.M.A(MD)No.42 of 2013:

Minor Prince Solomon,
Represented through his mother J.Sera ... Appellant/3rd respondent

Vs.

1.Filoma ... 1st Respondent / Petitioner

2.Raj

3.Iffco Tokio General Insurance Company Ltd.,
No.335/1/A, PV Complex, North Bye Pass Road,
Vannarpettai, Tirunelveli.

4.M.Thomas

5.M.Anto

6.Juliet

7.Sathish

... Respondents 2 to 7/Respondents 1,2,4,5,6,7



C.M.A(MD)No.42 of 2013
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Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 23.01.2012 passed in M.C.O.P.No.829 of 2009 on the file of the Motor Accident Claims Tribunal(Additional District & Sessions Judge)(Fast Track Court No.1), Tirunelveli.

For Appellant : Mr.G.Prabhu Rajadurai
For R-1 : Mr.V.Esakkimuthu
For R-3 : Mr.V.Sakthivel
For R-5 & R-7 : No Appearance
(RR 2, 4 & 6 – Notice unserved)

Cross Objection(MD)No.1 of 2024:

Filoma ... Cross Appellant/1st respondent

Vs.

1.Minor Prince Solomon

2.Raj

3.Iffco Tokio General Insurance Company Ltd.,
No.335/1/A, PV Complex, North Bye Pass Road,
Vannarpettai, Tirunelveli.

4.M.Thomas

5.M.Anto

6.Juliet

7.Sathish

... Respondents 2 to 7/Respondents 2 to 7

For Appellant : Mr.V.Esakkimuthu
For R-1 : Mr.I.Robert Chandrasekar
For R-2 : Mr.V.Sakthivel



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COMMON JUDGMENT

(Judgment of the Court was delivered by N.Seshasayee, J.)

In a road accident took place on 19.04.2009, certain Madhan, aged 23 years, at the relevant time, died. While he was riding his motor-cycle bearing Registration No.TN 69 P 3013, a Goods Carrier bearing No.TN 69 P 779 collided with it. The victim of the accident died on the spot. The mother and the siblings of the victim preferred M.C.O.P.No.829 of 2009 on the file of the Motor Accident Claims Tribunal (Additional District and Sessions Court) (Fast Tract Court No.1), Tirunelveli, claiming compensation. Certain Prince Solomon, a minor preferred a separate claim petition, claiming himself to be the son of the victim. That M.C.O.P., was later withdrawn and Prince Solomon came to be impleaded as third respondent in M.C.O.P.No.829 of 2009.

2. The issue came before the Tribunal and it passed an award of Rs.16,70,000/- payable with interest at 8% interest throughout. However, in awarding this compensation, the Tribunal has rejected the claim of the third respondent and awarded the entire sum to the mother of



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the victim. This award is given rise to the present appeal where the third respondent challenges the decision of the Tribunal in rejecting his claim.

3. This matter was heard on couple of earlier occasions by this Court and the controversy essentially was on the status of the appellant herein. According to the mother of the victim, the appellant herein is not born out of a legally recognizable wedlock and in law, he is not entitled to any compensation.

4. Now, the issue is not so much about whether the appellant herein was born to the victim of the accident but about the legitimacy of his birth. Therefore, this Court persuaded both the parties to arrive at an amicable settlement

5. Today, a statement was made on behalf of the first respondent, the mother of the victim that on humanitarian consideration and without conceding her contention *vis-a-vis* the legitimacy of appellant's status as her son's child, she is willing to share 1/3rd of the award amount with the appellant. The first respondent herself was present in the Court and this



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Court ascertains the fact from her and she conveyed her willingness to share 1/3rd sum awarded by the Tribunal with the appellant.

6. The learned counsel for the appellant has also agreed that his client too is satisfied with the sum so shared.

7. The issue however does not stop here since the mother of the victim had preferred a cross-objection seeking enhancement of compensation.

8. Learned counsel for the cross-objector filed a claim that the victim was Seaman and was working in Marine Navy and at the relevant time, he was earning \$1150 a month, which works out to Rs.57,500/-. After deducting 10% towards income tax and adding another 40% towards future prospects and applying multiplier at 18 and reducing the sum arrived by 50%, being the amount set aside for the personal expenditure of the victim, the total loss of dependency, argued the counsel, arrived would be Rs.78,24,600/-. To this, he submitted that the other conventional heads of compensation should be added.



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compensation amount payable under the said head now stands enhanced from Rs.16,50,000/- to Rs.56,50,000/-. This would be a reasonable sum given the fact that the victim was working and was barely 23 years old with a promising future before him. This Court considers that it would be a win-win situation since the Insurance Company is also only required to pay less than the sum which the cross-objector would otherwise be entitled to. This proposal of the Court was agreed to by the cross-objector.

12. With this sum so determined, if the sum awarded under other conventional heads at Rs.25,000/- (for loss of love and affection-Rs.10,000 /- and for loss of love and affection-Rs.10,000/-) is added, the total compensation would come to Rs.56,75,000/-.

13.1. Accordingly, this Court partly allows the appeal and the cross-objection and directs the Insurance Company to pay a sum of Rs.56,75,000/- (Rupees Fifty Six Lakhs and Seventy Five Thousand Only) with interest at the rate of 7.5% per annum, less the amount already deposited by the Insurance Company before the Tribunal, within



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a period of eight weeks from the date of receipt of a copy of this judgment.

13.2. Out of the sum so fixed, the appellant is required to be paid 1/3rd and the balance is required to be paid to the cross-objector. The cross-objector would not be entitle to any interest for the delay portion in preferring the cross-objection. This Court is informed that the mother of the appellant has remarried and the child is being brought by his maternal grandmother. Since the appellant is a minor now, the amount due to him is required to be deposited in a Nationalised Bank till he attains majority.

(N.S.S., J.) (P.V.M., J.)
18.07.2024

NCC : Yes/No
Index : Yes/No
PM



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To
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- 1.The Motor Accident Claims Tribunal/
District and Sessions Judge,
Communal Clash Cases Court,
Madurai.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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