



C.M.A(MD)No.31 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.31 of 2024

Muthan @ Muthusamy (died)
Rep by his next friend Guardian
Daughter P.Indhirani.

1.Indhirani
2.Susila

... Appellants

Vs.

1.Muthuraj
2.Rathidevi

3.The Manager,
New India Assurance Company Limited,
Divisional Office,
No.3, Main Road, 1st Floor,
Dindigul.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the fair and decreetal order in M.C.O.P.No.236 of 2013 dated 01.11.2023, on the file of the Motor Accident Claims Tribunal cum Additional Sub Court, Karur.

For Appellants	: Mr.S.Gokulraj
R1	: Dispensed with
For R2	: No Appearance
For R3	: Mr.J.S.Murali



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JUDGMENT

The claimants have filed this Civil Miscellaneous Appeal.

2. The claimants are the wife of the deceased and daughter of the deceased.

The accident occurred on 22.08.2011. Initially, the deceased suffered serious injuries on the head and eyes especially on the left part of the face and underwent surgery and he was under treatment for a period of four months as inpatient and finally was discharged on 24.11.2011. According to the petitioner, after discharge the victim was in vegetative state. Subsequently, he succumbed to injuries and died on 20.12.2013.

3. The contention of the claimants is that the Tribunal failed to consider the contention that the deceased died due to the injuries suffered in the year 2011. Even though the death occurred after two years, the deceased succumbed to the injuries sustained by the accident. Therefore, the compensation ought to have been awarded based on the injuries sustained by the victim. But this was vehemently opposed by the Learned Counsel appearing for the 3rd respondent stating that since death occurred after two and half years and there is no nexus to the accident and the death. Therefore, the Tribunal has come to the correct



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conclusion.

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4. On perusal of the impugned order it is seen that the award was granted to the tune of Rs.16,600/-. Even if it is taken as an injury case, the said amount is absolutely meagre. The Tribunal atleast ought to have treated the accident as injury case and awarded compensation.

5. It is seen from the discharge summary that the injured was taking treatment from 28.08.2011 to 24.11.2011 i.e. for a period of three months. Therefore, this Court is of the considered opinion that the claimants are entitled to compensation for this period. Even though the deceased was treated as inpatient for three months, he would have been without job for the next one year. However, the same is restricted to eight months. If Rs.9,000/- is fixed as salary, for eight months it will come around Rs.72,000/-. Hence, this Court is fixing the loss of income Rs.1,00,000/- and loss of future prospects Rs.1,00,000/-.

6. Admittedly, the deceased underwent operation in face. Therefore, for pain and suffering, this Court is awarding Rs.1,50,000/-. Since the deceased underwent operation in the Government Hospital, the medical bills may not be



available. Therefore, this Court is not inclined to fix compensation based on the medical bills. For extra nourishment this Court is awarding Rs.50,000/- and for loss of future amenities this Court is awarding Rs.1,00,000/-. Therefore, this Court is inclined to fix the total compensation as Rs.5,00,000/-. Since the claimants have not produced proper evidence, this Court is fixing the interest at the rate of 6% per annum.

7. The enhanced compensation granted by this Court is as under:

Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Loss of Income (Rs. 1,00,000/-) with future prospects (Rs.1,00,000/-)	Rs.2,00,000/-	Total compensation is Rs.16,600/-
2.	Pain and sufferings	Rs.1,50,000/-	
3.	Extra nourishment	Rs.50,000/-	
4.	Loss of future amenities	Rs.1,00,000/-	
Total compensation granted by this Court		Rs.5,00,000/- (enhanced)	

8. The 3rd respondent is directed to deposit Rs.5,00,000/- with interest at the rate of 6% 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 eight weeks



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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.

9. With the above said directions, the Civil Miscellaneous Appeal is allowed. No costs.

07.03.2024

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

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To

1.Motor Accident Claims Tribunal /
Additional Sub Court, Karur.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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