



C.M.A(MD)No.98 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.98 of 2021

and

C.M.P.(MD)No.869 of 2021

M/s.National Insurance Company Limited,
Through its Manager,
No.333/1, Chekalai Road,
Karaikudi, Sivagangai.

... Appellant

Vs.

1.Nagavalli
2.Minor Manoj
3.Minor Kannika
4.Minor Abinaya

*(Minors 2 to 4 represented by Mother
and next friend respondent No.1)*

5.Vigneswaran

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Judgement and Decree made in M.C.O.P.No.16 of 2017 dated 05.03.2020, on the file of the Motor Accident Claims Tribunal / Subordinate Judge, Devakkottai.

For Appellant	: Mr.P.Malini
For R1 to R4	: Mr.D.Venkatesh
R2 to R4	: Minors represented by R1
R5	: Exparte



C.M.A(MD)No.98 of 2021

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JUDGMENT

The Insurance Company has preferred this Civil Miscellaneous Appeal.

2. It is a case of fatal. The contention of the Insurance Company is that the age proof was not submitted by the claimants, therefore, the multiplier of 15 cannot be fixed. Therefore, in order to ascertain the age of the deceased, this Court directed the claimants to produce evidence. On 12.03.2024, the claimants had produced the SSLC certificate of the deceased, wherein the date of birth is stated as 17.02.1968 which means that the deceased was 44 years old at the time of accident. In such circumstances, as per *Sarla Verma* case the multiplier 15 is not applicable but the multiplier 14 is applicable. Therefore, the multiplier fixed by the Tribunal, i.e., 15 is modified as 14 by this Court.

3. The next contention of the Insurance Company is that the deceased was doing agricultural coolie work and the accident occurred in the year 2012, therefore, fixing Rs.12,000/- as notional monthly income for agricultural coolie is on the higher side. Accepting the said contention, this Court is reducing the notional monthly salary of the deceased from Rs.12,000/- to Rs.10,000/-. The Tribunal has granted loss of consortium alone but the Tribunal has failed to grant



C.M.A(MD)No.98 of 2021

compensation for loss of love and affection to the three minor children.

Therefore, this Court is granting Rs.40,000/- for loss of love and affection to each minor child which comes to Rs.1,20,000/- under the head of loss of love and affection. The compensation granted by the Tribunal under the other heads are confirmed.

4.The modified award amount granted by this Court is as under:

i.	Monthly income of the deceased	Rs.10,000/-
ii.	Future prospects (40%)	Rs.4,000/-
Total		Rs.14,000/-
1/4 th of income deducted towards personal expenses		- Rs.3,500/-
After deducting		Rs.10,500/-

Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	General Compensation (Rs.10,500/-*12*14)	Rs.17,64,000/- (reduced)	Rs.22,68,000/-
2.	Loss of Consortium	Rs.40,000/- (confirmed)	Rs.40,000 /-
3.	Loss of Love and Affection (Rs.40,000 * 3)	Rs.1,20,000/-	Nil
4.	Funeral Expenses	Rs.15,000/- (confirmed)	Rs.15,000/-
5.	Transport Expenses	Rs.15,000/- (confirmed)	Rs.15,000/-
Total compensation granted by this Court		Rs.19,54,000/- (reduced)	Total = Rs.23,38,000/-



C.M.A(MD)No.98 of 2021

WEB COPY

5.The appellant Insurance Company is directed to deposit Rs.19,54,000/- (Rupees Nineteen Lakh Fifty Four Thousand only) with interest at 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 eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw their shares (the claimants 1 to 4 are entitled to Rs. 9,76,999/-, Rs.3,25,667/-, Rs.3,25,667/- and Rs.3,25,667/- respectively) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. The Tribunal is directed to deposit the shares of the minor children in a nationalized bank until the children attains majority. The first respondent herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months. Once the minor claimants attain majority, they are permitted to withdraw their shares with accrued interests.

6. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

12.03.2024



C.M.A(MD)No.98 of 2021

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

- 1.Motor Accident Claims Tribunal /
Subordinate Judge, Devakkottai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A(MD)No.98 of 2021

S.SRIMATHY, J.

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C.M.A(MD)No.98 of 2021

12.03.2024