



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No. 48 of 2022

and

C.M.P(MD)No.454 of 2022

M/s.The Oriental Insurance Company Limited,
Represented by its Branch Manager,
Office at 1st Floor, D.D.J. Centre,
Opp. Vadasery Bus Stand,
Nagercoil Village,
Agastheeswaram Taluk,
Kanyakumari District.

... Appellant

Vs.

1. Beski George Rakiah
2. Gnanasoundhary Amirdham
3. Amala Mystika Beski [Minor]
4. Anto Vinsten

... Respondents

[The 3rd respondent/minor claimant is represented by her father and next guardian 1st petitioner].

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree passed in M.C.O.P.No.167 of 2019 dated 23.09.2021 on the file of the Motor Accident Claims Tribunal Cum Principal Subordinate Judge, Nagercoil.



For Appellant : M/s.C.Jawahar Ravindran
For R-1 to R-3 : Mr.A.Arumugam, for
M/s.Ajmal Associates

JUDGEMENT

The Insurance Company has preferred this Civil Miscellaneous Appeal against the Judgment and Decree passed in M.C.O.P.No.167 of 2019 dated 23.09.2021 on the file of the Motor Accident Claims Tribunal Cum Principal Subordinate Judge, Nagercoil.

2. It is a case of fatal. The contention of the Insurance Company is that the deceased was a student but the Tribunal has fixed Rs.15,000/- as monthly salary which is erroneous. When the deceased was only a student the fixation of Rs.15,000/- notional salary is excessive.

3. However, the Learned Counsel appearing for the claimants submitted that the deceased was the only son to the claimants and they are depending upon the deceased son for their livelihood.

4. After hearing the arguments this Court is of the considered opinion fixing Rs.15,000/- as notional salary for student is excessive. Therefore, in order to meet the ends of justice, this Court is of the considered



opinion that if the award is fixed as Rs.24,18,000/- lakhs as full quit, the same would be just and fair compensation. The same shall not carry any interest.

5. The Insurance Company has already deposited 50% of the award amount along with interest and Costs granted by the Tribunal. The Insurance Company is directed to deposit the balance amount, within a period of Four weeks from the date of receipt of a copy of the order. The claimants shall withdraw / deposit in Nationalized Bank as apportioned by the Tribunal.

6. This Order is passed based on the facts and circumstances of the present case and therefore, the said Judgment shall not be referred to as precedent.

7. Accordingly, this Civil Miscellaneous Appeal is partly allowed.
No Costs. Consequently, connected miscellaneous petition is closed.

01.02.2024

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



WEB COPY

To

1. The Motor Accident Claims Tribunal Cum
Principal Subordinate Judge, Nagercoil.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



S.SRIMATHY, J.

KSA

Order made in
C.M.A(MD)No.48 of 2022

01.02.2024