



C.M.A(MD)No.66 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.01.2024

CORAM

THE HON'BLE MR.JUSTICE S.SRIMATHY

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1. Fathima Parakath Hamitha
 2. Minor.Jamal Mohammed Agmal
 3. Minor.Mohammed Akhil Sha
 4. Ummu Lyla
- ... Appellants

Vs.

The New India Assurance Company Limited,
Through its Divisional Manager,
41-B, Victoria Street,
Tuticorin.

... Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to allow this appeal, enhance the award amount in M.C.O.P.No.608 of 2018 on the file of the Motor Accident Claims Tribunal (III Additional District Judge), Tirunelveli, dated 12.02.2021.

For Appellant : M/s.T.Selvakumaran
For Respondent : Mr.J.S.Murali



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JUDGEMENT

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This Appeal is filed by the claimants for enhancing the award, dated 12.02.2021 passed in M.C.O.P.No.608 of 2018 on the file of the Motor Accident Claims Tribunal [III Additional District Judge], Tirunelveli.

2. It is a case of fatal. The contention of the claimants is that the deceased was running a petrol bunk, but the Tribunal has taken notional income of Rs.7,500/-, which is on erroneous. But the contention of the respondent is that the said petrol bunk is in the name of the deceased wife i.e., the 1st claimant and not in the name of the deceased. In such circumstances, it cannot be claimed that the deceased was running a petrol bunk

3. But the claimants further submitted that the deceased was an Income Tax assessee and he filed Income Tax returns in his name. But the respondent submitted even though Income Tax return was filed for the petrol bunk, however the petrol bunk is in the name of the 1st claimant.



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4. Therefore, this Court is of the considered opinion that, even though the deceased is not having the petrol bunk in his name, his monthly income salary of Rs.7,500/- fixed by the Tribunal is not appropriate and it is on the lower side. However instead of fixing the salary this Court is increasing the compensation as Rs.5,00,000/-. Therefore, the Insurance Company is liable to pay an additional sum of Rs.5 Lakhs, as full quit, over and above already awarded amount. The increased amount shall not carry any interest.

5. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The award, dated 12.02.2021 passed in M.C.O.P.No.608 of 2018 on the file of the Motor Accident Claims Tribunal [III Additional District Judge], Tirunelveli, is modified to the extent stated supra. The respondent/Insurance company is directed to deposit a sum of Rs. 5,00,000/-[Rupees Five Lakhs only], as full quit, within a period of Six weeks from the date of receipt of a copy of the order. In the increased amount the 1st claimant is entitled for a sum of Rs.2,00,000/-[Rupees Two Lakhs Only] and the minor claimants 2 & 3 are entitled for a sum of Rs.1,25,000/-, each [Rs.1,25,000 + 1,25000 = Rs.2,50,000/-] and the 4th



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claimant is entitled for a sum of Rs.50,000/-[Rupees Fifty Thousand Only]as compensation. On such deposit being made, the claimants 1 & 4 are permitted to withdraw their respective share by filing formal application before the Tribunal. The share of the minor claimants shall be deposited in any one of the Nationalized Bank, till attaining majority. The 1st claimant is permitted to withdraw the interest amount of the minor claimants, once in Three months. No Costs.

12.01.2024

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



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To

1. The Motor Accident Claims Tribunal
[III Additional District Judge],
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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Order made in
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12.01.2024