



C.M.A(MD)No.225 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.225 of 2024

Thanga Rethinam (Died)

1.C.Selvaraj
2.S.Selvakumar
3.S.Jeyaseelan
4.S.Nisha

... Appellants

Vs.

1.S.Jeeva
2.The National Insurance Company Limited,
represented by its Branch Manager,
Office at 1st Floor, Anguvilas Building,
North Car Street, Near Head Post Office,
Nagarcoil, Nagarcoil Village,
Agastheswaram Taluk,
Kanniyakumari District.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree, dated 31.10.2023, made in in M.C.O.P.No.29 of 2019 on the file of Motor Accident Claims Tribunal Special Court for forest offence cases, Nagercoil seeking enhancement of compensation of Rs.15,00,000/-.

For Appellant	: Mr.P.Prabakaran
R1	: No appearance
For R2	: Mr.A.S.Mathialagan



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JUDGMENT

The claimants have filed this Civil Miscellaneous Appeal.

2. One Thanga Rethinam had suffered injury on 30.06.2018. Based on the said injury, the victim had filed the claim petition. But subsequently the injured succumbed to injury and died on 06.08.2020. But the said contention of ‘succumbed to the injury after a lapse of two years’ was vehemently opposed by the 2nd respondent Insurance Company. The contention of the Insurance Company is that there is no nexus to show that the alleged injury is the cause of death. However, the Learned Counsel appearing for the claimants explained that the injured after the accident had taken treatment periodically and finally, the injured has approached the Government Doctor who has given a disability certificate and also has rendered an opinion stating that the metal inserted in the limb ought to be removed and the nails also ought to be removed from the implantation. Further, he has opined that the injured has suffered 40% disability. Based on this, the Learned Counsel appearing for the claimants tried to convince this Court that the injured has suffered injury, had operation wherein metal rods were inserted. Thereafter due to complications that arose due to the implantation of metal rods, the victim died. It is seen from the certificate dated 04.07.2020 issued by the



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Government Doctor that the injured cannot walk freely, cannot squat, cannot climb stairs, cannot do her routine and she need nail removal. After this certificate the victim died on 06.08.2020, within one month from the said certificate. Therefore, this Court is of the considered opinion since there is a disability and also the infection septicemia, the Tribunal ought to have taken multiplier method for fixing the permanent disability or atleast ought to have granted compensation for injury. In the present case, since the deceased has succumbed to the injury, this Court is of the considered opinion that the compensation granted by the Tribunal is not a fair and just compensation.

3. The injured was a weaver by vocation and she has produced the certificate issued by Savodaya Sangam, Tuticorin. Since she was carrying out weaving work regularly, she had attended the work until 29.06.2018 which would indicate that the injured did not carry on her avocation from the date of accident. Therefore, there is loss of income. The injured was carrying on the avocation as a weaver but there is no evidence to prove the income she was deriving from the avocation. Hence, notional income ought to be fixed.

4. The learned Counsel for the claimants submitted that she was receiving



Rs.100/- per day. Since there is no evidence, this Court is fixing the notional income as Rs.11,000/- and future prospects as 15% and the multiplier is fixed as '14'. As far as medical expenses are concerned, this Court is fixing the same as Rs.1,20,000/-. This Court is enhancing the attender expenses granted by the Tribunal from Rs.30,000/- to Rs.50,000/-.

5.The enhanced award amount granted by this Court is as under:

i.	Monthly income of M/s.Thanga Rethinam	Rs.11,000/-
ii.	Future prospects (15%)	Rs.1,650/-
Total		Rs.12,650/-

Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Loss of Income (Rs.12,650/-*12*14)	Rs.21,25,200/-	Nil
2.	Medical Expenses	Rs.1,20,000/-	Nil
3.	Extra Nourishment	Rs.30,000/- (confirmed)	Rs.30,000/-
4.	Transport Expenses	Rs.10,000/- (confirmed)	Rs.10,000/-
5.	Damage to Dress and Articles	Rs.2,000/- (confirmed)	Rs.2,000/-
6.	Attender Expenses	Rs.50,000/- (enhanced)	Rs.30,000/-
Total compensation granted by this Court		Rs.23,37,200/- (enhanced)	Total = Rs. 72,000/-



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6.The 2nd respondent Insurance Company is directed to deposit Rs. 23,37,200/- (Rupees Twenty Three Lakh Thirty Seven Thousand and Two Hundred 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.5,97,200/-, Rs.5,80,000/-, Rs. 5,80,000/- and Rs. 5,80,000/- respectively) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. Since this Court is enhancing the compensation, the claimants are liable to pay the balance Court fee.

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

18.03.2024

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

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To

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1. Motor Accident Claims Tribunal
Special Court for forest offence cases,
Nagercoil.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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