



C.M.A.(MD) No.1242 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1242 of 2022

and

C.M.P.(MD)Nos.12744 of 2022 & 12708 of 2024

The Branch Manager,
Cholamandalam MS General Insurance Co. Ltd.,
2nd Floor, "Dare House",
No.2, N.S.C. Boas Road,
Chennai 600 001.

... Appellant

Vs.

1.Muthumari,
2.Minor Kaleeswari,
3.Minor Karthikeyan.
(Minors represented through their
mother/first respondent)
4.Rajammal,
5.G.Madasamy.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 12.11.2021 passed in M.C.O.P.No.20 of 2021, on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Ramanathapuram.



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For Appellant : Mr.K.R.Shivashankari

For Respondents

for R1 to R4: Mr.R.Senthil Kumar

for R5 : Mr.K.Sathish Kumar

J U D G M E N T

The Insurance Company has preferred the appeal challenging the quantum of compensation.

2. The appeal is taken up for final hearing with the consent of both the parties.

3. Since the findings on negligence and liability are not under challenge, the facts leading to the filing of the claim petition are unnecessary for the disposal of the appeal.

4. The learned counsel for the appellant submitted that the notional income fixed by the Tribunal at Rs.12,000/- p.m. is excessive in the absence of any proof of income; and that the award of compensation under the head 'love and affection' at Rs.1,00,000/- each to the children of



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the deceased is not in accordance with the guidelines issued by the

Hon'ble Supreme Court and hence prayed for reduction of compensation.

5. The learned counsel for the respondents 1 to 4, per contra, submitted that the quantum of compensation is just and reasonable and no interference is called for.

6. The only point for consideration in the appeal is '*whether the quantum of compensation awarded by the Tribunal is just and reasonable?*'

7. The accident took place in the year 2020. The wife of the deceased-P.W.1 had deposed that the deceased was doing the business of distribution of bakery products to the retailers. This Court is of the view that considering the avocation, the year of accident and the age of the accident, the notional income of Rs.12,000/- fixed by the Tribunal is just and reasonable. However, this Court finds that the compensation under the head 'loss of consortium' to the minor children at Rs.1,00,000/- each is contrary to the ratio of the Hon'ble Supreme Court in ***The National Insurance Company Limited vs. Pranay Sethi reported in 2017 (16)***



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SCC 680. Hence, the said compensation is reduced to Rs.88,000/- (Rs.

44,000/- x 2) and the consortium to the first respondent/wife is enhanced to Rs.44,000/- since the Hon'ble Supreme Court had held that every three years, the said compensation can be enhanced by 10%, the compensation under the heads 'funeral expenses' and 'loss of estate' is enhanced to Rs.16,500/- each. Thus, the compensation awarded by the Tribunal is modified as follows:

Sl. No	Description	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed, enhanced or granted
1	Transportation charges	Rs. 5,000/-	Rs. 5,000/-	Confirmed
2	Funeral Expenses	Rs. 15,000/-	Rs. 16,500/-	Enhanced
3	Loss of consortium to the first respondent	Rs. 40,000/-	Rs. 44,000/-	Enhanced
4	Loss of love and affection to the respondents 2 and 3	Rs. 2,00,000/-	Rs. 88,000/-	Reduced
5	Loss of dependency	Rs.17,55,000/-	Rs.17,55,000/-	Confirmed
6	Loss of estate	Rs. 15,000/-	Rs. 16,500/-	Enhanced
Total		Rs.20,30,000/-	Rs.19,25,000/-	Reduced by Rs.1,05,000/-

8. The appellant/Insurance Company is directed to deposit the



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modified compensation of **Rs.19,25,000/-** (Rupees Nineteen Lakhs and Twenty Five Thousand only) together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization and costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order. The appellant is permitted to withdraw the excess amount, if any deposited.

9. On such deposit, the first & fourth respondents/claimants are entitled to withdraw their share amount together with proportionate interest and costs, as per the apportionment fixed by the Tribunal, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal.

10. The second respondent was a minor when the claim petition was filed in the year 2021. She would have attained majority now. Hence, she is directed to file appropriate application for recording herself as major and to withdraw her share.

11. The Tribunal is directed to deposit the share amount of the minor claimant/respondent 3 herein in any one of the Nationalized Bank



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in an interest bearing Fixed Deposit, initially for a period of three years, renewable thereafter, till the minor attains majority. The guardian of the minor/first respondent herein, who is his mother, is permitted to withdraw interest from the said deposit, once in three months and utilise the same for the welfare of the minor claimant/respondent 3 herein.

12. In the result, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

18.10.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd

To:

1. The Motor Accidents Claims Tribunal, Additional District Judge, Ramanathapuram.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

apd

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