



C.M.A.(MD) No.491 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.491 of 2024

and

C.M.P.(MD) No.6579 of 2024

The Branch Manager,
Oriental Insurance Company Ltd.,
No.1548, Tenkasi Road,
Rajapalayam,
Virudhunagar District.

... Appellant

Vs.

1.Sarkunam
W/o.Veluchamy

2.Muthuganesan
S/o.Veluchamy

3.Seethalakshmi
D/o.Veluchamy

4.K.S.Muthusingapparaja
S/o.Srirengaraja

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to modify the Judgment and Decree dated 13.12.2023 passed in M.C.O.P.No.292 of 2018 on the file of the Motor Accident Claims Tribunal/Additional District Court, Srivilliputtur, Virudhunagar District.



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C.M.A.(MD) No.491 of 2024

For Appellant : Mr.A.Ilango
For R1 to R3 : Mr.M.Suresh
For R4 : No appearance

J U D G M E N T

The Insurance Company has preferred the instant appeal challenging the quantum of compensation awarded by the Tribunal to the first to third respondents.

2. 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 this appeal.

3. The learned counsel for the appellant submitted that the claimants had not produced any documents to prove the age of the deceased, and therefore, the Tribunal erred in fixing the age of the deceased at 60 years and applying the multiplier of '9'; and that the notional income fixed at Rs.14,000/- per annum is on the higher side in the absence of any proof of income, and prayed for deduction of compensation.



C.M.A.(MD) No.491 of 2024

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4. The learned counsel for the first to third respondents/claimants, per contra, submitted that the notional income was rightly fixed by the Tribunal, as per the decision of the Hon'ble Division Bench of this Court in *Andal and others Vs. Avinav Kannan and another*, reported in **2019(1) TNMAC 54 (DB)**, considering the cost inflation index; that since the age of the deceased was 60 years as per his Service Register and even as per the postmortem report, the multiplier applied by the Tribunal was right; and that no compensation was awarded towards 'transport expenses' and the compensation awarded under the other heads is meagre, and therefore, prayed for enhancement of the compensation.

5. The only point for consideration in the instant appeal is whether the quantum of compensation awarded by the Tribunal is just and reasonable.

6. The age of the deceased was shown as 58 years in the postmortem report (Ex.P4). However, the extract of the deceased's Service Register produced on the side of the claimants indicates that the date of birth of the deceased was 10th June, 1958. Therefore, the Court is



C.M.A.(MD) No.491 of 2024

of the view that the Tribunal had rightly fixed the age of the deceased at 60 years and applied the multiplier of '9'.

7. As regards the notional income, this Court is of the view that in the absence of any evidence to prove the pension received by the deceased or any other source of income, considering the age and avocation of the deceased and the year of the accident, a sum of Rs.10,000/- per month can be fixed as notional income of the deceased, 10% has to be added towards future prospects, and $1/3^{\text{rd}}$ has to be deducted towards 'personal expenses'. Thus, the compensation under the head 'loss of dependency' would be Rs.7,92,000/- $[10,000 + 10/100 \times 12 \times 9 \times 2/3]$.

8. The Tribunal had not awarded any compensation towards 'transport expenses'. Therefore, a sum of Rs.10,000/- is awarded under the head 'transport expenses'. The compensation awarded under the other heads is just and reasonable and is therefore confirmed.

9. The total compensation awarded by the Tribunal is modified as follows:



C.M.A.(MD) No.491 of 2024

Sl. No	Heads	Amount awarded by the Tribunal	Amount awarded by this Court	Award confirmed, reduced, enhanced or awarded
1	Loss of dependency	Rs.11,08,836/-	Rs.7,92,000/-	Reduced
2	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed
3	Loss of estate	Rs. 15,000/-	Rs. 15,000/-	Confirmed
4	Loss of love and affection to the claimants	Rs.1,20,000/-	Rs.1,20,000/-	Confirmed
6	Transport Expenses	-	Rs. 10,000/-	Awarded
7	Medical Expenses	Rs.2,77,195/-	Rs.2,77,195/-	Confirmed
Total		Rs.15,36,031/-	Rs.12,29,195/-	Reduced by Rs.3,06,836/-

10. The appellant is directed to deposit the aforesaid modified amount of Rs.12,29,195/- together with interest at 7.5% per annum from the date of the claim petition till the date of realization and costs, after deducting the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this Judgment.

11. On such deposit, the first to third respondents are permitted to withdraw the same, as per the apportionment fixed by the Tribunal, along with the interest and costs, less the amount already withdrawn, if any, by filing suitable application before the Tribunal.



C.M.A.(MD) No.491 of 2024

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12. The appellant, Insurance Company, is permitted to withdraw the excess amount already deposited, if any, together with interest, by filing suitable application before the Tribunal.

13. In the result, this Civil Miscellaneous Appeal is partly allowed.
No costs. Consequently, the connected Miscellaneous Petition is closed.

17.10.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

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Copy To:

- 1.The Additional District Judge,
Motor Accident Claims Tribunal,
Srivilliputtur, Virudhunagar District.
- 2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD) No.491 of 2024

SUNDER MOHAN, J.

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C.M.A.(MD) No.491 of 2024
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C.M.P.(MD) No.6579 of 2024

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