



C.M.A(MD)No.352 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.352 of 2021

1. M.Mayan,

2. M.Suseela

... Appellants/Petitioners

Vs

1. K.R.Rengaraj,

2. United India Insurance Co. Ltd.,  
23, E.V.Road, Puthur,  
Trichy.

3. Ifco Tokiyo General Insurance Co.Ltd,  
375 A, First Floor,  
Jeyaram Building,  
Madurai Road, Theni.

... Respondents/Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, to allow this appeal and enhance the award amount in M.C.O.P.No.35 of 2017 on the file of the Motor Accident Claims Tribunal cum Sub Court, Uthamapalayam, dated 01.02.2020.



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For Appellant : Mr.Thomas Rajadurai  
For R-1 : No appearance  
For R-2 : Mr.I.Robert Chandrakumar  
For R-3 : Mr.V.Sakthivel

### **JUDGEMENT**

The claimants have preferred this appeal against the order passed by the Tribunal.

2. The primary contention of the claimants is that while calculating the loss of notional income of the deceased, the Tribunal has fixed the same as Rs.9,000/- per month and had arrived the annual income at Rs.1,08,800/- and had fixed the future prospects to be 40% and had arrived at Rs.43,200/- towards the future prospects. But thereafter without taking into account of the original annual income of Rs.1,08,000/-, the Tribunal had proceeded to calculate only future prospects, which is erroneous and the same need to be rectified. The total amount comes as Rs.12,85,200/-, but the Tribunal has wrongly fixed as Rs.3,67,200/-.

3. Further contention of the claimant is that the Tribunal had fixed the notional income as Rs.9,000/- per month, but the deceased was a BBA graduate



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and he was on the verge of completing the Course. If the deceased had completed the Course, he would have received Rs.20,000/- as monthly salary. Therefore, the notional income which was fixed as Rs.9,000/- is on the lower side. It is seen that the claimants have not produced any evidence. However, this Court is of the considered opinion that notional income would be fixed at Rs.6,500/- for any claim in the year 2008 as per *Syed Sadiq's case*. In the present case the date of accident is 01.01.2017. Hence based on inflation the claimant is entitled to Rs.8000/-. Further the Courts are fixing Rs.8000/- for any mason, painter etc. When the deceased had completed BBA, then the same ought to be taken into account.

4. The next contention of the claimants is that the deceased was 23 years old at the time of death. But the Tribunal has fixed the Multiplier as 17, but the appropriate multiplier ought to be fixed is 18. Therefore, this Court is modifying the same.

5. Based on the aforesaid observations, this Court is enhancing the multiplier from 17 to 18 and is also enhancing the notional monthly income from Rs.9,000/- per month to Rs.12,000/- per month. The compensation granted by the



Tribunal under the other heads are confirmed.

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6. The modified compensation awarded by this Court is as under:

|       |                               |             |
|-------|-------------------------------|-------------|
| i.    | Monthly income of the injured | Rs.12,000/- |
| ii.   | Future prospects (40%)        | Rs.4,800/-  |
| Total |                               | Rs.16,800/- |

| Sl. No.                                           | Head of Compensation                                                  | Modified award granted by this Court | Award granted by the Tribunal                          |
|---------------------------------------------------|-----------------------------------------------------------------------|--------------------------------------|--------------------------------------------------------|
| 1.                                                | Loss of Dependency<br>(Rs.16,800/- * 12 * 18* 1/2<br>=Rs.18,14,400/-) | Rs.18,14,400<br>(enhanced)           | Rs.3,67,200/-                                          |
| 2.                                                | Funeral Expenses                                                      | Rs.20,000/-<br>(confirmed)           | Rs.20,000/-                                            |
| 3.                                                | Loss of Love and Affection                                            | Rs.80,000/-<br>(confirmed)           | Rs.80,000/-                                            |
| Enhanced total compensation granted by this Court |                                                                       | Rs.19,14,000/-                       | Total compensation awarded by Tribunal = Rs.4,67,200/- |

Therefore, this Court is enhancing the total compensation granted by the Tribunal from Rs.4,67,200/- to Rs.19,14,000/-



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7. The 2<sup>nd</sup> respondent is directed to deposit a sum of **Rs.19,14,000/-** (Rupees Nineteen Lakhs Fourteen Thousand only) with interest at the rate of 7.5% per annum, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw their shares (claimants 1 and 2 are entitled to Rs.9,14,000/- and Rs.10,00,000/- 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, if any.

8. With the above said modifications, this Civil Miscellaneous Appeal is partly allowed. No costs.

**28.03.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
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**S.SRIMATHY, J.**

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To

- 1.Motor Accident Claims Tribunal,  
(Sub Court), Uthamapalayam.
- 2.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
\_ Madurai.

Order made in  
C.M.A(MD)No.352 of 2021

28.03.2024