



C.M.A(MD)No.748 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.748 of 2022

1.Ayyanan
2.Banumathi
3.Sangeetha

... Appellants

Vs.

1.V.Alagar

2.M/s.Shri Ram General Insurance
Company Limited,
represented by its Divisional Manager,
No.66, Thirumalai Pillai Road,
2nd Floor, City Centre Complex,
T Nagar, Chennai – 600 017.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree passed in M.C.O.P.No.900 of 2012, dated 04.02.2017, by the Learned District and Sessions Judge (for communal clashes cases court-MACT), Madurai.

For Appellants : Mr.A.Mohan
For R1 : No appearance
For R2 : Mr.V.Sakthivel

JUDGEMENT

The claimants have filed this Civil Miscellaneous Appeal. It is a case of fatal.



2. The contention of the claimants is that the deceased was working as Driver cum Cleaner and he was earning around Rs.12,000/-. This fact was vehemently opposed by the respondent Insurance Company stating that in the petition, the claimants have stated the occupation of the deceased person as Driver cum Cleaner, but have not stated the name of the employer and hence the said plea cannot be accepted.

3. After hearing the arguments, this Court is of the considered opinion that by applying the ratio laid down in ***Syed Sadiq Vs. United India Insurance Co. Ltd. reported in 2014 TN MAC 459***, the Tribunal has fixed the notional income as Rs.6500/- per month. It is seen that the accident in ***Syed Sadiq*** case occurred in the year 2008, therefore, the fixation therein was Rs.6500/-. In the present case, the accident occurred in the year 2012, by taking the factor of inflation and other factors, this Court is of the considered opinion that the monthly income ought to be fixed as Rs.9,500/-. It is pointed out that the Tribunal has not taken the future prospects into consideration. Hence for future prospects, 30% shall be included. The amount granted by the Tribunal under other heads are confirmed.

4. It is seen that the claimant has filed this appeal with delay of 1420 days.



Hence, the claimants had filed C.M.P.(MD)No.4104 of 2021 wherein this Court had allowed the petition vide order, dated 21.07.2022 and has held for the delay period the claimant is not entitled to interest. Therefore, this Court is of the considered opinion that the claimant is not entitled to interest for the delay period of 1420 days.

5. The modified award amount is as under:

i.	Monthly income of the deceased	Rs.9,500/-
ii.	Loss of future income (30%)	Rs.2,850/-
Total		Rs.12,350/-
50% of income deducted towards personal expenses		50% of Rs.12,350/- =Rs.6,175/-

1.	Pecuniary Loss to the family (Rs.6,175/- * 12 * 18)	Rs.13,33,800/-
2.	Funeral Expenses	Rs.20,000/-
3.	Loss of Love and Affection	Rs.20,000/-
4.	Transport	Rs.10,000/-
Enhanced Total		Rs.13,83,800/-

The total compensation awarded by the Tribunal ie., Rs.7,52,000/- is enhanced to Rs.13,83,800/- by this Court.



C.M.A(MD)No.748 of 2022

WEB COPY

6. The 2nd respondent Insurance Company is directed to deposit **Rs. 13,83,800/-** 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 3 are entitled to Rs.5,50,000/-, 7,50,000/- and 83,800/- respectively) and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal.

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

06.02.2024

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

Tmg



C.M.A(MD)No.748 of 2022

WEB COPY

To

1. District and Sessions Judge
(for communal clashes cases court-MACT),
Madurai.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD)No.748 of 2022

S.SRIMATHY, J.

Tmg

C.M.A(MD)No.748 of 2022

06.02.2024