



C.M.A(MD)No.467 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.467 of 2021

1.Subramanian
2.Ashok Kumar

... Appellants

Vs.

1.Salaikumar
2.United India Insurance Company Limited,
Through its Branch Manager,
Office at No.37/2, Mattappa Street,
Neel Complex, 2nd Floor, Thenkasi.

(Policy No.0918003117P109152923 and
valid from 27.09.2017 to 26.09.2018)

3.Padmavathi
4.Parvathi

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 10.11.2020 passed in M.C.O.P.No.1783 of 2017, on the file of the by the Motor Accident Claims Tribunal/ 1st Additional District and Sessions Court, Tirunelveli.

For Appellant	: Mr.V.Sasi Kumar
For R1	: Exparte vide order dated 16.02.2024
For R2	: Mr.J.S.Murali
For R3 and R4	: Mr.Jeyakumaran



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JUDGMENT

The claimants have preferred this Civil Miscellaneous Appeal.

2.It is a case of fatal. The nature of accident is that while the deceased was standing on the road, a Mini Bus had hit the deceased due to rash and negligent driving and the victim fell down and died on the spot. The claimants are the children of the deceased. The father of the claimants is not alive. The respondents 3 and 4 herein are the daughters of the deceased. After considering the evidence and after considering the age of the deceased as 70 years, the Tribunal has granted consortium, funeral expenses and transport expenses alone. Aggrieved over the same, the present appeal is preferred by the claimants for enhancement of compensation.

3. As per the judgment rendered by the Hon'ble Supreme Court in the case of *Magma General Insurance Company Limited*, this Court is increasing 10% for every 3 years for inflation under the head Loss of Parental Consortium. There are four legal heirs, each legal heir is entitled to Rs.40,000/- plus increase due to inflation. Therefore, this Court is fixing the loss of consortium as Rs.45,000/- per



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legal heir which comes to Rs.1,80,000/- totally. Hence, under loss of parental consortium granted by the Tribunal to the tune of Rs.40,000/- is increased to Rs. 1,80,000/- by this Court. As far as the funeral expenses is concerned, the Tribunal has granted 15,000/- and this Court is increasing it to Rs.20,000/-. As far as the transport expenses is concerned, the Tribunal has granted 5,000/- and this Court is increasing it to Rs.20,000/-. Therefore, the total compensation awarded by the Tribunal to the tune of Rs.60,000/- is enhanced to Rs.2,20,000/- by this Court.

4.The 2nd respondent is directed to deposit Rs.2,20,000/- 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 six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants 1 and 2 and the respondents 3 and 4 herein are permitted to withdraw their equal shares with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. The Insurance Company is entitled to recover the same from the owner of the vehicle / 1st respondent herein, by way of filing Execution Petition, without actually filing a suit as held by Hon'ble Apex Court in the judgment reported in **2004 (2) CTC 464 (Oriental Insurance Co., Ltd., vs. Shri Nanjappan and**



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

28.02.2024

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

Tmg

To

1.Motor Accident Claims Tribunal /
1st Additional District and Sessions Court,
Tirunelveli.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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