



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.915 of 2022

and

C.M.P(MD)Nos.8920 of 2022 & 11034 of 2023

Cholamandalam MS General Insurance Company Limited,
Head Office,
L.No.2, 2nd Floor, “Dare House”,
N.S.C. Bose Road,
Chennai – 600 001.
Through its Branch Manager

... Appellant

Vs.

- 1.R.Nagalakshmi
- 2.R.Velmurugan
- 3.Latha
- 4.Chola Insurance Service Pvt. Ltd.,
Office at Saravana Complex,
Axis Bank Opposite,
Bodinaickanur,
Uthamapalayam Road,
Bodinaickanur,
Bodinaickanur Taluk,
Theni District.
Through its Branch Manager.
- 5.M.Subburaj
- 6.Senthilkumar

... Respondents



PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the Judgment and Decree passed in M.C.O.P.No.63 of 2019, on the file of the Motor Accident Claims Tribunal, Fast Track Mahila Court, Theni dated 23.10.2021.

For Appellant : Mr.K.R.Shivashankari

For Respondents 1 to 3 : Mr.K.Hemakarthiskeyan

For Respondents 4 & 5 : No appearance

For Respondent No.6 : Unserved

JUDGEMENT

The Insurance Company has preferred this appeal to set aside the Judgment and Decree passed in M.C.O.P.No.63 of 2019, on the file of the Motor Accident Claims Tribunal, Fast Track Mahila Court, Theni dated 23.10.2021.

2. It is a case of fatal. The Tribunal has taken notional income of the deceased as Rs.14118/- and for future prospectus of 25%. The contention of the Insurance company is that the deceased was a seller of Garlic and the claimant have not filed any proof to prove the monthly income of the deceased. Hence fixation of Rs.14,000/- as notional income is on the higher side.



3. Considering the facts of the case, in order to meet the ends of justice, this Court is fixing the notional income of the deceased as Rs.13,500/-.

Monthly income is	Rs.13,500/-
ADD 25% for future prospectus	Rs.13,500 + Rs.3,375 = Rs.16,875/-
DEDUCT 1/3 personal expenses	Rs.11,250/-

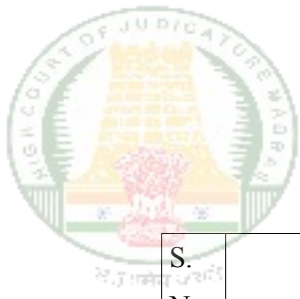
Since the age of the deceased is 50, the multiplier 13 is to be applied.

Rs.11,250 x 12 x 13 =
Rs.17,55,000/-

4. The next contention of the Insurance company is that the Tribunal had granted for loss of consortium as Rs.50,000/-, which is on the higher side. This Court is reducing the same and fixing the same as Rs.40,000/-. For Loss of love and affection the Tribunal has granted a sum of Rs.1 Lakh, but the petitioners are entitled to only 40,000/-. Therefore, this Court is granting a sum of Rs.80,000/- for loss of love and affection.

5. To that extent, the award amount granted by the Tribunal is modified and the rest of the award granted under various heads are hereby confirmed.

6. Accordingly, the claimants are entitled for compensation as follows:



S. No.	Description	Amount awarded by Tribunal this Court		Award confirmed / enhanced / granted
1.	For Loss of income	Rs.18,34,092/-	Rs.17,55,000/-	reduced
2.	For Filial Consortium	Rs. 50,000/-	Rs. 40,000/-	reduced
3.	For loss of Love and Affection	Rs. 1,00,000/-	Rs. 80,000/-	reduced
4.	For funeral expenses	Rs. 15,000/-	Rs. 15,000/-	confirmed
5.	For loss of articles	Rs. 15,000/-	Rs. 15,000/-	Confirmed
6.	For transport expenses	Rs. 5,000/-	Rs. 5,000/-	Confirmed
Total		Rs.20,19,092/-	Rs.19,10,000/-	

From the compensation of **Rs.20,19,092/-** granted by the Tribunal is reduced and this Court is granting a sum of **Rs.19,10,000/-**, as compensation.

7. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The claimants are entitled to a sum of **Rs.19,10,000/-** as compensation with interest at 7.5% p.a., from the date of claim petition till the date of realization along with costs. The Insurance Company is directed to deposit the said compensation amount, within a period of 8 weeks from the date of receipt of a copy of the Order, less the amount, if already deposited. After depositing the amount, the claimants are permitted to withdraw their respective share as apportioned by the Tribunal.



8. With these modifications, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

11.03.2024

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

To

1. The Motor Accident Claims Tribunal,
Fast Track Mahila Court,
Theni.

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



WEB COPY



S.SRIMATHY, J.

KSA

**Order made in
C.M.A(MD)No.915 of 2022**

11.03.2024