



C.M.A(MD)No.801 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 30.01.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.801 of 2021
and
C.M.P.(MD)No.7635 of 2021

M/s.United India Insurance Company Limited,
represented by its Divisional Manager,
Neel Complex, 2nd Floor,
Door No.37/2,
Mattappa Street, Tenkasi,
Tenkasi District.

... Appellant

Vs.

1.P.Ramar
2.Ganesh Selvi
3.Ramesh

... Respondents

(Notice to 3rd respondent herein is given up
as he was ex parte before the Tribunal)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, as against the fair and decreetal order, dated 05.02.2021, made in M.C.O.P.No.56 of 2019 on the file of the Motor Accident Claims Tribunal (Additional District Court) (Fast Track) at Tenkasi.

For Appellant	: Mr.B.Rajesh Saravanan
For R1 and 2	: Mr.R.J.Karthick
For R3	: No appearance



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JUDGEMENT

The present Civil Miscellaneous Appeal is filed by the Insurance Company.

2.It is a case of accident. A fourteen-year-old minor child who was a student had died. The contention of the Insurance Company is that the Tribunal has deducted 1/3rd from the income of the deceased. Since the deceased ought to be taken as bachelor, 50% ought to be deducted. It is a settled proposition if any bachelor dies, 50% ought to be deducted.

3. It is seen that the Tribunal has taken the notional income as Rs.7,000/-, but for any person the minimum notional income is fixed as Rs.8,000/-. Since the student was a bright student, in the present case the notional income shall be fixed as Rs.10,000/-.

4. The accident occurred while the minor was travelling in the auto but seated in the driver seat. Since the deceased was travelling next to the Driver in the auto then contributory negligence ought to be fixed against the deceased. Since the deceased is a minor, it would be appropriate to deduct Rs.60,000/- from



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the total amount of compensation. Hence, the award amount granted by the Tribunal is modified as under:

1	Monthly income of the deceased	Rs.10,000/-
2	Loss of future income	Rs.4,000/-
	Total	Rs.14,000/-
50% should have been spent on himself (deceased) (deduction)		50% of Rs.14,000/- = Rs. 7,000/-

1.	Rs.7,000/- * 12 * 18 =	Rs.15,12,000/-
2.	Under litigation heads	Rs.1,50,000/-
Total		Rs.16,62,000/-
Deduction for contributory negligence		Rs.60,000/-
Enhanced Total		Rs.16,02,000/-

4. The appellant / Insurance Company is directed to deposit the sum of Rs. 16,02,000/- [Rupees Sixteen Lakh Two Thousand only] with interest at the rate of 7.5% per annum for the enhanced amount and costs, 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 being made, the claimants are permitted to withdraw the same with accrued interests and costs, as apportioned by the tribunal, less the amount already withdrawn by them, if any, without filing any application before the Tribunal.



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5. With the above said modification, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

30.01.2024

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

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To

1.Motor Accident Claims Tribunal
(Additional District Court) (Fast Track),
Tenkasi.

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



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S.SRIMATHY, J.

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