



C.M.A(MD)No.398 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.06.2024

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THE HONOURABLE MRS.JUSTICE G. ILANGO VAN

C.M.A(MD)No.398 of 2023

1.Parvathi

2.Renganayaki

3.Sundaram

4.Ananthi

5.Balakrishnan

... Appellants / Petitioners

Vs

1.Nova Thomas

2.The National Insurance Company Ltd.,

TP Hub 1st floor,

Aruvi Block, St.Pauls Complex,

Bharathidasan Road, Contonment,

Trichy-1.

...Respondents / Respondents

PRAYER :-

This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act to modify the judgment and decree dated 01.03.2021 in M.C.O.P.No.176 of 2019 on the file of Motor Accidents Claims Tribunal / Special District Court, Trichirapalli and award further enhanced compensation of Rs.3,00,000/-.



C.M.A(MD)No.398 of 2023

For Appellants : Mr.N.Sudhagar Nagaraj
For R1 : No appearance
For R2 : Mr.P.Malini

JUDGMENT

This Civil Miscellaneous Appeal is filed to modify the judgment and decree dated 01.03.2021 made in M.C.O.P.No.176 of 2019 on the file of Motor Accidents Claims Tribunal / Special District Court, Trichirapalli and award further enhanced compensation of Rs.3,00,000/-.

2. The facts in brief is that on 03.11.2018 at about 1.05 p.m., the petitioner's mother was returning to his house, from West to East direction at Anna Nagar, Thennur. At that time, a van bearing registration No.TN 48 J 5150 was driven by its driver in a rash and negligent manner and hit the petitioner's mother from behind. She sustained grievous injuries and was taken to the Government Hospital, Trichy. But without responding to the treatment, she died.



C.M.A(MD)No.398 of 2023

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3. Against which a case in Crime No.212 of 2018 was registered against the first respondent vehicle driver. At that time of the accident, she was aged about 65 and earning not less than Rs.15,000/- by doing agricultural coolie work. Claiming compensation of Rs.10,00,000/- petition was filed. That was resisted by the insurance company by filing counter stating that vehicle bearing registration number TN 48 J 5150 was not involved in the occurrence. Apart from that other customary denials were also made.

4. Before the Tribunal, on the side of the claimants, two witnesses were examined and eight documents marked and on the side of the insurance company no witness was examined and no document marked. At the result, the Tribunal held that the occurrence took place because of the rash and negligent driving on the part of the first respondent vehicle driver. Therefore, the liability is fixed on the first respondent vehicle driver and the second respondent/ insurance company is directed to deposit the compensation. The Tribunal awarded compensation as follows:



C.M.A(MD)No.398 of 2023

1.	Loss of Dependency	Rs.1,68,720/-
2.	Transport expenses	Rs. 7,000/-
3.	Parental Consortium (35,000 x 5)	Rs.1,75,000/-
4.	Funeral expenses	Rs. 10,000/-
5.	Loss of estate	Rs. 10,000/-
	Total	Rs.3,70,720/-

Against which this Civil Miscellaneous Appeal is preferred.

5. Heard both sides.

6. Regarding the negligence aspect, no contention was raised by the learned counsel for the respondent. Before the Tribunal, a contention was raised that the deceased suddenly crossed the road and invited the accident. But on the side of the insurance company, the concerned driver was not examined. There is no direct evidence from the appellants on this aspect. The manner of accident was taken into account and concluded that it occurred due to the rash and negligent driving of the first respondent driver. It is a case of hitting the deceased from the behind. Naturally, the first respondent driver alone can be held responsible. It was right to hold so. Therefore, no interference is called for.



C.M.A(MD)No.398 of 2023

WEB COPY

7. Regarding the second issue of compensation, the Tribunal found that on the date of the occurrence, the deceased was aged about 69 years. There was no evidence on the side of the claimant to prove the exact income of the deceased. It has been simply stated that she was an agricultural coolie by profession. Taking into account, the minimum wages prescribed under the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), the monthly earning is fixed at Rs.3,750/-. 1/4 of the monthly income was deducted towards personal expenses Rs.2812/- (3750 - 938). Multiplier 5 was adopted and calculated the loss of income as Rs.1,68,720/-. Other customary amounts were added as noted above.

8. Learned counsel for the appellants would submit that the Tribunal ought to have adopted or taken Rs.6,000/- as the monthly earning of the deceased. But the monthly income of the deceased fixed as Rs.3,750/- per month is very meagre. It is in the evidence to the fact that taking Rs.6,000/- as monthly earning of the deceased would be reasonable amount.



C.M.A(MD)No.398 of 2023

9. For which, the learned counsel for the respondent has also strong objections.

10. Taking into account, the daily wages earner, the amount of Rs. 6,000/- per month may be reasonable one. Hence, recalculation has to be made on this aspect. Since she was aged about 65 years, there was no future prospects. From Rs.6,000/-, 1/4 of the amount was deducted towards personal expenses. Therefore, the monthly income of the claimant is Rs.4,500/- (6000 - 1500). Therefore, the loss of income is $4500 \times 12 \times 5 = \text{Rs.}2,70,000/-$. In respect of the other customary amounts, no interference is called for.

11. Therefore, the award of the Tribunal is modified as follows:

1.	Loss of Income	Rs.2,70,000/-
2.	Transport expenses	Rs. 7,000/-
3.	Parental Consortium (40,000 x 5)	Rs.2,00,000/-
4.	Funeral expenses	Rs. 15,000/-
5.	Loss of estate	Rs. 15,000/-
	Total	Rs.5,07,000/-



C.M.A(MD)No.398 of 2023

WEB COPY

12. Accordingly, this Civil Miscellaneous Appeal is partly allowed.

(i) The quantum of compensation awarded by the Tribunal is enhanced from Rs.3,70,720/- to **Rs.5,07,000/-** (Rupees Five Lakhs Seven Thousand only) which shall carry interest at the rate of 7.5% per annum.

(ii) The second respondent /Insurance company, is directed to deposit the entire compensation of **Rs.5,07,000/-** (if not already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and proportionate costs to the credit of M.C.O.P.No.176 of 2019 on the file of Motor Accidents Claims Tribunal / Special District Court, Trichirapalli, within a period of eight weeks from the date of receipt of a copy of this order. The petitioners are not entitled for any interest for the default period.

(iii) The claimants are directed to pay the court fee for the enhanced amount.



C.M.A(MD)No.398 of 2023

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(iv) On such deposit being made by the second respondent /insurance company, the claimants are permitted to withdraw the amount as per the order of the Tribunal.

07.06.2024

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

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To

- 1.The Motor Accidents Claims Tribunal / Special District Court, Trichirapalli.
- 2.The Section Officer, Vernacular Records,
Madurai Bench of Madras High Court, Madurai.



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C.M.A(MD)No.398 of 2023

G. ILANGO VAN, J

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C.M.A(MD)No.398 of 2023

07.06.2024