



C.M.A(MD)No.717 of 2022

WEB COP BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.717 of 2022

The Oriental Insurance Company Limited,
through its Divisional Manager,
Office at Number 4,
Bharathidasan Road,
2nd Floor, Cantonment,
Trichirapalli.

... Appellant

Vs.

1.Syed Meeral Beevi
2.Jaleesur Rahman
3.Dhanalakshmi

... Respondents

(Respondent No.3 given up)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree passed in MCOP No.325 of 2018, dated 28.02.2022, on the file of the Motor Accident Claims Tribunal cum I Additional District Court, Tirunelveli.

For Appellant : Mr.C.Jawahar Ravindran

For R1 & R2 : Mr.V.Sasikumar



JUDGMENT

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The Insurance Company has preferred this Civil Miscellaneous Appeal.

2.It is a case of fatal. The only contention that was raised by the Insurance Company is that the notional salary fixation by the Tribunal, ie., Rs.25,000/- is on the higher side. The deceased was an engineering student and the Tribunal has fixed the notional salary as Rs.25,000/-.

3. The learned Counsel for the Insurance Company relied on two judgments of the Hon'ble Division Bench of this Court and the judgment of a Learned Single Judge. In the case of *Jeyakannan and others Vs. Divya Impex and another* reported in **2017 (1) TN MAC 510 (DB)**, the Hon'ble Division Bench of this Court has fixed the notional salary as Rs.18,000/-. In the case of *Reliance General Insurance Company Limited Vs. A.Senthilkumar and others* reported in **2021 (1) TN MAC 805 (DB)**, the Court has fixed the notional monthly income as Rs.18,000/-. A Learned Single Judge has fixed the notional salary as Rs. 17,000/- in another case. The learned Counsel for the claimants relied on another judgment of the Hon'ble Division Bench of this Court rendered in the case of *Managing Director Vs. Nila and another* reported in **2019 (2) TN MAC 153**



(DB) wherein the Court has fixed the notional salary as Rs.20,000/-.

4. On perusing all the aforesaid judgments, it is seen that for accidents occurred in 2009, the Court has fixed Rs.18,000/- as notional salary and for accidents occurred in 2015, the notional salary was fixed as Rs.20,000/-. In the present case, the accident occurred in the year 2017. Therefore, it would be appropriate to fix Rs.20,000/- as notional salary. Therefore, this Court is fixing Rs.20,000/- as notional salary. The Tribunal has granted consortium to one parent alone. Since the other parent is also alive, another Rs.40,000/- is added for loss of consortium. Hence, the loss of consortium to parents is enhanced from Rs. 40,000/- to Rs.80,000/- by this Court. The compensation granted under the other heads are confirmed.

5.The modified award amount is as under:

i.	Monthly income of the deceased	Rs.20,000/-
ii.	Future Prospects (40%)	Rs.8,000/-
Total		Rs.28,000/-
50% of income deducted towards personal expenses		50% of Rs.28,000/- =Rs.14,000/-



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Sl. No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Compensation after multiplier of 18 is applied (Rs.14,000/-*12*18)	Rs.30,24,000/- (reduced)	Rs.37,80,000/-
2.	Loss of Consortium to parents (Rs.40,000/- *2)	Rs.80,000/- (enhanced)	Rs.40,000/-
3.	Loss of Estate	Rs.15,000/- (confirmed)	Rs.15,000/-
4.	Funeral Expenses	Rs.15,000/- (confirmed)	Rs.15,000/-
Total compensation granted by this Court		Rs.31,34,000/- (reduced)	Total = Rs. 38,50,000/-

6.Thus, the total compensation granted by the Tribunal is reduced from Rs. 38,50,000/- to Rs.31,34,000/- by this Court. The appellant Insurance Company is directed to deposit Rs.31,34,000/- (Rupees Thirty One Lakh Thirty Four Thousand only) 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 eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants 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.

7.With the above said observations, the Civil Miscellaneous Appeal is



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partly allowed. No costs.

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

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To

1.Motor Accident Claims Tribunal cum
I Additional District Court,
Tirunelveli.

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

S.SRIMATHY, J.



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