



C.M.A(MD)No.994 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 08.08.2024

CORAM

**THE HONOURABLE MR JUSTICE SUNDER MOHAN**

**C.M.A(MD)No.994 of 2024**

1.Vellaiyammal  
2.Meena  
3.Anitha  
4.Saranya

... Appellants/Petitioners

Vs.

1.Rajapandian

2.The Branch Manager,  
The New India Assurance Company Ltd.,  
No.3, Main Road, Dindigul District.

...Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, against the award made in MCOP No.46 of 2021 dated 03.01.2024 on the file of the Motor Accident Claims Tribunal/ Principal District Court, Dindigul.

For Appellants  
For R2

:Mr.R.T.Arivu Kumar  
:Mr.A.Ilango



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### **JUDGMENT**

This Civil Miscellaneous Appeal is filed by the claimants challenging the award dated 03.01.2024 made in MCOP No.46 of 2021, passed by the Motor Accident Claims Tribunal/ Principal District Court, Dindigul.

2.The appellants are the claimants seeking enhancement of compensation.

3.The appellants filed the claim petition before the Tribunal stating that on 21.10.2020 while the deceased was riding his two wheeler bearing Registration No.TN-38-BJ-7347 with a pillion rider from Oddanchatram to Dharapuram and crossed the road, a van bearing Registration No.TN-07-AW-2561 came in a rash and negligent manner and dashed against the two wheeler; and that the deceased sustained fatal injuries.





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8.The learned counsel for the appellants submitted that the compensation awarded by the Tribunal is meagre, in as much as the notional income taken by the Tribunal at Rs.5,000/- was very low; and that the compensation awarded on the head of loss of love and affection is not in accordance with the guidelines laid down by the Hon'ble Supreme Court.

9.Since the first respondent, the owner of the van, remained ex-parte before the Tribunal, notice to the first respondent is dispensed with.

10.Mr.A.Ilango, learned counsel took notice on behalf of the second respondent and submitted that the deceased was 67 years old at the time of the accident and no proof was produced to prove his avocation and income and therefore, the award of compensation is just and reasonable and no interference is called for.



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11.This Court has carefully considered the submissions made on either side and perused the materials available on record.

12.The only question involved in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.

13.Though it is a fact that the deceased was aged about 67 years at the time of accident, the evidence of P.W.1-wife of the deceased is that the deceased was working as a milk vendor. Considering the age of the deceased, his avocation and the evidence let in on the side of the claimants, this Court is of the view of that it would be just and reasonable to fix the notional income at Rs.7,000/- per month. Since there are four dependents,  $\frac{1}{4}$  has to be deducted towards his personal expenses. The multiplier applicable is '5'. Thus, the compensation under the head of loss of dependency has to be  $(Rs.7000 \times \frac{3}{4} \times 5 \times 12 = Rs. 3,15,000/-)$  Rs.3,15,000/-. The award of the Tribunal under the



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head of loss of consortium at Rs.20,000/- to the first claimant and Rs.30,000/- to the second and third claimants is meagre and therefore, this Court is inclined to modify and enhanced the compensation under the head of loss of consortium at Rs. 1,76,000/-(Rs.44,000x4). Since no compensation was awarded under the head of loss of estate, this Court is of the view that it would be reasonable to award a sum of Rs.20,000/- under the said head. The compensation awarded under the other heads is confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

| S.No | Description                                                          | Amount awarded by Tribunal (Rs.) | Amount awarded by this Court (Rs.) | Award confirmed or enhanced or granted |
|------|----------------------------------------------------------------------|----------------------------------|------------------------------------|----------------------------------------|
| 1.   | For Loss of Dependency                                               | 2,25,000/-                       | 3,15,000/-                         | enhanced                               |
| 2.   | For Loss of Consortium                                               | <b>20,000/-</b>                  | 1,76,000/-                         | enhanced                               |
| 3.   | Loss of loss of Love and Affection(2&3 petitioners each Rs.10,000/-) | 30,000/-                         |                                    |                                        |
| 4.   | Funeral expenses                                                     | 15,000/-                         | 15,000/-                           | Confirmed                              |
| 5.   | Transport Expenses                                                   | 5,000/-                          | 5,000/-                            | Confirmed                              |
| 6.   | For Loss of Estate                                                   | -                                | 20,000/-                           |                                        |
|      | <b>Total</b>                                                         | <b>2,95,000/-</b>                | <b>5,31,500/-</b>                  | enhanced                               |



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14.In view of the above, the Civil Miscellaneous Appeal is partly allowed. The second respondent is directed to deposit the enhanced compensation amount of Rs.5,31,500/- to the credit of MCOP No.46 of 2021 dated 03.01.2024 on the file of the Motor Accident Claims Tribunal/ Principal District Court, Dindigul, with accrued interest, within a period of six weeks from the date of receipt of a copy of this order, after deducting the amount already deposited. On such deposit, the appellants/claimants are entitled to withdraw their shares as apportioned by the Tribunal, less the amount already withdrawn if any, by filing an appropriate petition before the Tribunal. The appellants/claimants are directed to pay the court fee on the enhanced amount of compensation, if any, within a period of 4 weeks therefrom. No costs.

08.08.2024

NCC:Yes/No  
Index:Yes/No  
Internet:Yes/No  
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**SUNDER MOHAN, J.**

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To

1.The Motor Accident Claims Tribunal/  
Principal District Court,  
Dindigul.

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

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