



C.M.A(MD)No.869 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.02.2024**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.869 of 2022

and

C.M.P.(MD)No.8268 of 2022

Managing Director
TNSTC, Kumbakonam Ltd.,
Pudukkottai Zone.

... Appellant

Vs.

1.Ramalakshmi
2.Anusiya
3.Suryaprakash
4.Managing Director,
TNSTC, Karaikudi,
Kumbakonam Ltd.,
5.Jeyaraman

... Respondents

(Minor R2 and R3 are rep. through the 1st respondent)
(R4 is the sister Corporation of the appellant and that given up)
(R5 is the driver of the appellant and that given up)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the order, dated 23.12.2021, passed in M.C.O.P.No.143 of 2018 on the file of the Motor Accident Claims Tribunal / Additional District Court, Ramanathapuram.



WEB COPY



C.M.A(MD)No.869 of 2022

For Appellant : Mr.P.Prabhakaran
For R1 to R3 : Mr.G.Thalaimutharasu
For R4 & R5 : Given Up

JUDGEMENT

This appeal is filed by the Transport Corporation against the award passed by the Tribunal.

2. It is the case of fatal. The deceased Raja was working as a Drumset Organizer and the accident occurred in the year 2015. The contention of the appellant is that the claimants have not produced any documents to prove the income of the deceased. The Tribunal had fixed the notional income as Rs.9000/-, which is on the higher side.

3. For the accident took place in the year 2008, the Hon'ble Supreme Court in the case of *Syed Sadiq vs. Divisional Manager, United India Insurance reported in 2014 1 TNMAC 459 (SC)* has awarded a sum of Rs.6,500/- (Rupees Six Thousand and Five Hundred



C.M.A(MD)No.869 of 2022

WEB COPY

Only) as monthly income. Therefore, this Court is fixing the notional monthly income of the deceased as Rs.8,000/- (Rupees Eight Thousand only). As far as compensation as “maintenance” for the minor respondents 2 and 3/ claimants 2 and 3 is concerned, the Tribunal has fixed Rs.2,00,000/- and the same cannot be legally sustained. Therefore, the maintenance of minor respondents 2 and 3/ claimants 2 and 3 is declined. As far the loss of love and affection is concerned, this Court is not inclined to interfere with the same. The rest of the portion of the order is confirmed.

4. The modified award amount is as under:

i.	Monthly income of the deceased	Rs.8,000/-
ii.	Future prospects (25%)	Rs.2,000/-
Total		Rs.10,000/-
1/3 rd of income deducted towards personal expenses		Rs.3,333/-
After deduction		Rs.6,667/-



C.M.A(MD)No.869 of 2022

Sl.No.	Head of Compensation	Award granted by the Tribunal	Modified award granted by this Court
1.	Transportation	Rs.5,000/-	Rs.5,000/- (confirmed)
2.	Funeral Expenses	Rs.15,000/-	Rs.15,000 /- (confirmed)
3.	Loss of Consortium	Rs.40,000/-	Rs.40,000/- (confirmed)
4.	Loss of Love and Affection	Rs.1,00,000/-	Rs.1,00,000/- (confirmed)
5.	Maintenance of minor claimants 2 and 3	Rs.2,00,000/-	Nil
6.	Loss of Dependency	Rs.11,70,000/-	Rs. 10,40,052/- (reduced) (Rs.6,667/- * 12 * 13)
7.	Loss of Estate	Rs.15,000/-	Rs.15,000/- (confirmed)
Total compensation granted by this Court		Rs.15,45,000/-	Total = Rs. 12,15,052/- (reduced)

5. The appellant Insurance Company shall deposit Rs.12,15,052/- (Rupees Twelve Lakh Fifteen Thousand and Fifty Two 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



C.M.A(MD)No.869 of 2022

judgment. On such deposit, the claimants are permitted to withdraw their shares (claimants 1 to 3 are entitled to Rs.6,15,052/-, Rs.3,00,000/- and Rs.3,00,000/- respectively) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. The Tribunal is directed to deposit the shares of the minor children in a nationalized bank until the children attains majority. The first respondent herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months. Once the minor claimants attain majority, they are permitted to withdraw their shares with accrued interests.

6. With the above said modification, this Civil Miscellaneous Petition is party allowed. No costs. Consequently, connected miscellaneous petition is closed.

07.02.2024

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



WEB COPY



C.M.A(MD)No.869 of 2022

S.SRIMATHY, J.

jbr

To

- 1.Motor Accident Claims Tribunal,
Additional District Court, Ramanathapuram.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

JUDGMENT made in
C.M.A(MD)No.869 of 2022

07.02.2024