



C.M.A(MD)No.900 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.900 of 2021

TATA AIG General Insurance Company Limited,
Chennai.

... Appellant

Vs.

1.Mahalakshmi
2.Packiaraj
3.Santhoshkumar
4.Chandran

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Judgement and Decree made in M.C.O.P.No.244 of 2016 dated 06.03.2021, on the file of the Motor Accident Claims Tribunal, Additional Subordinate Court, Tenkasi.

For Appellant : Mr.J.S.Murali
For R1 & R2 : Mr.R.J.Karthick
For R3 & R4 : Mr.G.Prabhu Rajadurai

JUDGMENT

The Insurance Company has filed this Civil Miscellaneous Appeal.



C.M.A(MD)No.900 of 2021

WEB COPY

2. It is a case of fatal. The deceased died on 26.06.2016. The Tribunal has taken the salary of the deceased as Rs.8,000/-. Even though the claimants submitted that the notional salary fixation is on the lower side, since the appeal is filed by the Insurance Company, this Court is not inclined to increase the same.

3. The contention of the Insurance Company is that the deceased was not having valid license and hence the claimants are not entitled to compensation. The said contention of the Insurance Company cannot be accepted. If there is no valid license then the owner is liable to pay. And the Insurance Company is liable to pay and recover from the owner. The Tribunal had rightly awarded compensation along with pay and recover. Therefore, this Court is not inclined to accept the contention of the Insurance Company.

4. For loss of consortium, the Tribunal has granted Rs.40,000/- for each claimant. This Court is increasing the same to Rs.48,000/- for each claimant. Except for this modification the award on other heads is confirmed. The modified compensation granted by this Court is as under:



C.M.A(MD)No.900 of 2021

Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Loss of Income (Rs.5,600/-*12*18)	Rs.12,09,600/- (confirmed)	Rs.12,09,600/-
2.	Loss of Estate	Rs.15,000/- (confirmed)	Rs.15,000 /-
3.	Funeral Expenses	Rs.15,000/- (confirmed)	Rs.15,000/-
4.	Loss of Consortium (Rs.48,000 * 2)	Rs.96,000/- (enhanced)	Rs.80,000/-
Total compensation granted by this Court		Rs.13,35,600/- (enhanced)	Total = Rs.13,19,600/-

5.The appellant is directed to deposit Rs.13,35,600/- 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. The appellant Insurance Company is entitled to recover the same from the owner of the vehicle / 4th respondent herein, by way of filing Execution Petition, without actually filing a suit as held by Hon'ble Apex Court in the judgment reported in **2004 (2) CTC 464 (Oriental Insurance Co., Ltd., vs. Shri Nanjappan and others)**.



C.M.A(MD)No.900 of 2021

WEB COPY

6. With the above said directions, the Civil Miscellaneous Appeal is disposed of. No costs.

12.03.2024

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

Tmg

To

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



WEB COPY



C.M.A(MD)No.900 of 2021

S.SRIMATHY, J.

Tmg

C.M.A(MD)No.900 of 2021

12.03.2024