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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No. 878 of 2021

1. J.Azhagammal

2. J.Jeyashri

... Appellants

*[Minor 2nd appellant is declared as major and guardianship of her mother/
1st respondent is discharged vide Order of this Court, dated 31.08.2021.]*

Vs.

1. M.Jebamalai Selvaraj

2. The United India Insurance Company Limited,
Represented by its Divisional Manager,
Divisional Office,
No.7A, West Veli Street,
Madurai-625 001.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the Decree and Judgment in M.C.O.P No.960 of 2017, dated 16.09.2020 on the file of the Motor Accident Claims Tribunal/ Communal Clash Cases Court, Madurai and allow the appeal with cost.

For Appellant : M/s.K.R.Manimaran

For R-2 : Mr.I.Suthakaran



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JUDGEMENT

The claimants have preferred this appeal for enhancing the award passed in M.C.O.P No.960 of 2017, dated 16.09.2020 on the file of the Motor Accident Claims Tribunal/ Communal Clash Cases Court, Madurai.

2. It is a case of fatal. The contention of the claimants is that the deceased was working as Driver in Saudi Arabia. Subsequently, he returned to India. The deceased could not continue his job in Saudi Arabia due to non-availability of work.

4. But the contention of the Insurance Company is that at the time of accident the deceased was not having valid driving license and therefore any enhancement cannot be entertained.

5. On perusal of the Order passed by the Tribunal, it is seen that the Tribunal has fixed notional salary of Rs.6,500/-. As per Syed Sadiq Vs. United India Insurance Co. Ltd. reported in 2014 TN MAC 459 the notional fixation of income is Rs.6500/- for the accident happened in the year 2008. Following the judgment of Syed Sadiq's case and by taking inflation into account this Court is fixing the minimum notional income for the accident happened after 2015



onwards as Rs.8,000/-. The deceased was working as Driver in Saudi Arabia and without license he could not have worked as driver, hence, the deceased was not having license is unbelievable. The deceased might not be having driving license issued by Indian Authorities. Therefore, this Court is of the considered that the Tribunal had erred in fixing minimum notional salary as Rs. 6,500/- for not having valid driving license.

6. Therefore, this Court is fixing Rs.9,500/-as monthly salary of the deceased. As far as Loss of Consortium the Tribunal has granted Rs.40,000/-is lower side. Therefore, under the head of consortium the claimants are entitled for a sum of Rs.1,00,000/- (2 x Rs.50,000).

7. The monthly income of the deceased is Rs.9,500/-. Hence, 1/3 of the income of the deceased has to be deducted towards his personal expenses. Hence, deducting 1/3 towards the personal expenses of the deceased is Rs.3,167/- and his income comes to Rs.9,500- Rs.3,167 =Rs.6,333/-. Since the age of the deceased is 48 years, 25% shall be added as future prospectus. Hence, by adding Rs.6,333 + Rs.1,583 = Rs.7,916/-. The monthly income of the deceased is fixed as Rs.7,916/- per month. Since the age of the deceased is 48 years the appropriate multiplier is 13. Hence, by applying the multiplier 13



(Rs.7,916 x 12 x 13 = Rs.12,34,896/-) it would come to Rs.12,34,896/-.

Hence, this Court is enhancing under the head of the pecuniary loss an amount of Rs.12,34,896/-.

8. Accordingly, the claimants are entitled for compensation as follows:

S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For Loss of pecuniary Benefits	Rs.8,44,896/-	Rs.12,34,896/-	Enhanced
2.	For Loss of Estate	Rs. 15,000/-	Rs. 15,000/-	confirmed
3.	For Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-	confirmed
4.	For Consortium [2 x Rs.50,000/-]	Rs. 40,000/-	Rs.1,00,000/-	Enhanced
5.	For Medical Bills	Rs. 1,91,500/-	Rs.1,91,500/-	Confirmed
Total		Rs.11,06,396/-	Rs.15,56,396/-	

From the compensation of Rs.11,06,396/-granted by the Tribunal, this Court is enhancing a sum of Rs.15,56,396/-, as compensation.

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

The claimants are entitled to a sum of Rs.15,56,396/-as compensation with interest at 7.5% p.a., from the date of claim petition till the date of realization along with costs. The Insurance Company is directed to deposit the balance



amount, 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 being made, the claimants are permitted to withdraw the same with accrued interests and costs as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. No Costs.

08.02.2024

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

To

1. The Motor Accident Claims Tribunal/
Communal Clash Cases Court,
Madurai.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

KSA

**Order made in
C.M.A(MD)No.878 of 2021**

08.02.2024