



C.M.A(MD)No.1091 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 16.07.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1091 of 2014

1.Dhanalakshmi

2.Sakthivel

3.Sakthikumar

4.Satheshkumar

5.Minor.Sankeeth Prem

6.Minor.Sowmya

... Appellants

[Minor petitioners 5 & 6 are represented by their Mother and natural guardian 1st petitioner herein]

Vs.

1.M.Sitthiyan

2.Royal Sundaram Alliance Insurance

Company Limited,
No.8/H-1, Mangalam building,
4 Road, Salem – 636 009.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, praying to allow this appeal and enhance the compensation in M.C.O.P.No.1537 of 2013 on the file of the Motor Accident Claims Tribunal, (Special District Judge), Trichy, dated 05.09.2014.



WEB COPY



C.M.A(MD)No.1091 of 2014

For Appellant : Mr.A.Saravanan

For Respondent No.1 : Mr.M.V.Venkatasesan

For Respondent No.2 : Mr.S.Srinivasa Raghavan

JUDGEMENT

This Appeal is filed by the claimants to enhance the compensation passed in M.C.O.P.No.1537 of 2013, dated 05.09.2014 on the file of the Motor Accident Claims Tribunal, (Special District Judge), Trichy.

2. It is a case of fatal. This appeal is preferred by the claimants for enhancing the compensation granted by the Tribunal. However, the appeal is filed restricting the amount of Rs.1,00,000/-.

3. The contention of the claimants is that the Tribunal has taken a correct multiplier, but, it was splitted and granted compensation. Therefore, this Court is inclined to interfere with the Order passed by the Tribunal.

4. At the time of accident, the deceased was 58 years old and therefore, 1/3 deduction is applicable and for future prospectus 10% is to be



C.M.A(MD)No.1091 of 2014

applied. As far as loss of consortium is concerned, the claimants either entitled to consortium or under the head of love and affection. In the present case, there are six legal heirs, therefore, this Court is inclined to grant a sum of Rs.2,40,000/-(6 x Rs.80,000/-each) under the head of consortium. For funeral expenses this Court is inclined to grant Rs.30,000/-. The compensation granted by the Tribunal in the other heads are hereby confirmed.

5. The monthly income of the deceased is Rs.8,285/-. 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.2,762/- and his income comes to Rs.8,285- Rs.2,762 = Rs.5,523/-. Since the age of the deceased is 58 years, 10% shall be added as future prospectus. Hence, by adding Rs.5,523 + Rs.552 = Rs.6,075/-. The monthly income of the deceased is fixed as Rs.6,075/- per month. Since the age of the deceased is 58 years the appropriate multiplier is 9. Hence, by applying the multiplier 9 (Rs.6,075 x 12 x 9 = Rs.6,56,100/-) it would come to Rs.6,56,100/-. Hence, this Court is enhancing under the head of the pecuniary loss an amount of Rs.6,56,100/-.



C.M.A(MD)No.1091 of 2014

6. 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 partial income	Rs.1,11,852/-	---	---
2.	For Loss of income	Rs.2,23,740/-	Rs. 6,56,100/-	enhanced
3.	For loss of consortium to the 1 st claimant/wife	Rs. 10,000/-	--	--
	For Loss of consortium for the claimants [Rs.80,000/-each x 6]	Rs. 50,000/-	Rs. 2,40,000/-	enhanced
3.	For Transport and Funeral Expenses	Rs. 10,000/-	Rs. 30,000/-	enhanced
Total		Rs.4,05,592/-	Rs.9,26,100/-	

From the compensation of Rs.4,05,592/-granted by the Tribunal, this Court is enhancing a sum of Rs.9,26,100/-, as compensation.

7. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The claimants are entitled to a sum of **Rs.9,26,100/-**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 same, less the amount already deposited, if any, within a period of Eight weeks from the date of receipt of a copy of this Judgment.



C.M.A(MD)No.1091 of 2014

On such deposit being made, the claimants are entitled their share, as apportioned by the Tribunal. The 1 to 4 claimants are permitted to withdraw their share as per Law and the share of the minor claimants 5 & 6 shall be deposited in anyone of the Nationalized bank till they attains majority. The interest accrued on the share of the minor claimants shall be paid to the 1st claimant, once in three months. The 1st claimant is directed to pay the balance Court fee for the enhanced compensation, if any. No Costs.

16.07.2024

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

KSA

To

1. The Motor Accident Claims Tribunal,
(Special District Judge), Trichy
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD)No.1091 of 2014

S.SRIMATHY, J.

KSA

**Order made in
C.M.A(MD)No.1091 of 2014**

16.07.2024