



C.M.A(MD)No.1138 of2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1138 of 2014

1.Subramanian

2.Banumathi

... Appellants

Vs.

1.Chelladurai

2.The Divisional Manager,
The New India Assurance Company Limited,
No.84-A, Thiruvananthapuram Road,
Palayamkottai.

3.Murugan

4.The Divisional Manager,
The Oriental Insurance Company Limited,
Sivasakthi Shopping Complex,
No.24-E/12-A,
S.N.High Road, Tirunelveli.

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree made in M.C.O.P.No.483 of 2011, on the file of the by the Motor Accident Claims Tribunal, Additional District Court, (Fast Track Court No.2), Tirunelveli.

For Appellant	: Mr.T.Selvakumaran
For R2	: Mr.B.Vijaykarthikeyan
For R4	: Mr.C.Jawahar Ravindran
For R1 & R3	: No Appearance



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JUDGMENT

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The claimant has preferred this Civil Miscellaneous Appeal.

2.It is a case of fatal. The claimants are the parents of the deceased who was a minor. The contention of the appellant is that the minor was 11 years old and he was a student. The Tribunal had fixed the notional salary as Rs.3,000/- per month, however the same ought to be fixed as Rs.5,000/- per month. It is seen that the accident occurred on 23.08.2010. As per *Syed Sadiq's case*, for any accident occurred in the year 2008, the notional income is fixed as Rs.6,500/- per month. In the present case, even though it is 2010, since the deceased is a minor, this Court is inclined to fix the salary as Rs.6,500/- per month.

3. As far as the funeral expenses is concerned, the same is increased from Rs.10,000/- to Rs.15,000/- by this Court. The Tribunal has granted Rs.20,000/- for loss of love and affection and this Court is increasing the same to Rs.80,000/- (Rs.40,000/- * 2). The Tribunal has fixed the interest at the rate of 8% per annum but the same is reduced to 7.5% per annum by this Court. The compensation granted by the Tribunal under other heads are confirmed.

4.The modified award amount granted by this Court is as under:



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i.	Monthly income of the deceased	Rs.6,500/-
ii.	Future Prospects (40%)	Rs.2,600/-
Total		Rs.9,100/-
Deduction of 50% of income towards personal expenses		- Rs.4,550/-
After deduction		Rs.4,550/-

Sl. No.	Heads	Award granted by Tribunal	Award granted by this Court	Enhanced / Confirmed / Reduced
1.	Loss of Income	Rs.3,90,000/-	Rs.9,82,800/- (Rs.4,550/-*12*18)	Enhanced
2.	Funeral Expenses	Rs.10,000/-	Rs.15,000/-	Enhanced
3.	Loss of Love and Affection	Rs.20,000/-	Rs.80,000/-	Enhanced
	Total	Rs.4,20,000/-	Rs.10,77,800/-	Enhanced

Thus, the total compensation granted by the Tribunal to the tune of Rs.4,20,000/- is enhanced to Rs.10,77,800/- by this Court. The 2nd respondent is liable to pay 50% of the compensation and the 4th respondent is liable to pay 50% of the compensation. The 4th respondent shall pay the 50% of the compensation and recover it from the owner of the vehicle / 3rd respondent.

5.The 2nd respondent Insurance Company is directed to deposit Rs. 5,38,900/- 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 six weeks from the date of receipt of a copy of this judgment.



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The 4th respondent Insurance Company is directed to deposit Rs.5,38,900/- with interest at the rate of 7.5% per annum 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 six weeks from the date of receipt of a copy of this judgment. On such deposits, 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 4th respondent Insurance Company is entitled to recover the deposited amount from the owner of the vehicle / 3rd 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)**. Since this Court is enhancing the compensation, the claimants are liable to pay the balance Court fee, if any.

6. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

08.07.2024

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

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<https://www.mhc.tn.gov.in/judis>



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To

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- 1.Motor Accident Claims Tribunal,
Additional District Court, (Fast Track Court No.2),
Tirunelveli.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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