



C.M.A(MD)No.1019 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1019 of 2016

and

CMP(MD)No. 7902 of 2017

1.Shanmugathai
2.Kowsalya
3.John Pandian
4.Sathish Kumar
5.Ramesh Kumar

... Appellants

Vs.

1.Shahul Hameed
2.Cholamandalam MS General Insurance
Company Limited,
Through its Branch Manager,
No.10-H, First Floor,
Trivandrum Road, Palayamkottai,
Tirunelveli-627002.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree, dated 28.10.2014, made in M.C.O.P.No.820 of 2012, on the file of the Motor Accident Claims Tribunal, (3rd Additional District Court) Tirunelveli.

For Appellants : M/s.T.Selvakumaran
For R1 : No appearance
For R2 : M/s.K.R.Shiva Shankari



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JUDGMENT

The Civil Miscellaneous Appeal is preferred by the claimants.

2.It is a case of fatal. The contention of the appellant is that the date of the accident is 27.06.2012. The deceased was 55 years old and he was working as Loadman. But the notional income was fixed as Rs.4,500/-. The issue of fixation of notional income is settled in the case of *Syed Sadiq Vs. United India Insurance Company Limited* reported in **2014 TN MAC 459** wherein the Hon'ble Supreme Court has held that for any accident happened in the year 2008, minimum notional monthly income should be fixed as Rs.6,500/-. In the present case, the accident occurred in the year 2012. Therefore, this Court is inclined to increase the notional monthly income to Rs.7,000/- from Rs.4,500/-.

3. As far as loss of love and affection is concerned, the Tribunal has fixed Rs.50,000/- but there are four claimants other than wife, hence, the same is increased to Rs.1,60,000/- (Rs.40,000/- for each claimant). Apart from these two enhancements, the compensation granted by the Tribunal under the other heads are not interfered with and the same are confirmed.



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

Monthly income of the deceased	Rs.7,000/-
Deduction of 1/4 th of income towards personal expenses	- Rs.1,750/-
After deduction	Rs.5,250/-

S1. No.	Heads	Award granted by Tribunal	Award granted by this Court	Enhanced / Confirmed / Reduced
1.	Loss of Income	Rs.4,45,500/- (Rs.3,375/- *12 * 11)	Rs.6,93,000/- (Rs.5,250/- * 12 * 11)	Enhanced
2.	Loss of Consortium (1 st claimant)	Rs.50,000/-	Rs.50,000/-	Confirmed
3.	Loss of Love and Affection (claimants 2 to 5)	Rs.50,000/-	Rs.1,60,000/- (Rs.40,000/- * 4)	Enhanced
4.	Funeral Expenses	Rs.25,000/-	Rs.25,000/-	Confirmed
5.	Loss of Estate	Rs.10,000/-	Rs.10,000/-	Confirmed
6.	Transport Expenses	Rs.10,000/-	Rs.10,000/-	Confirmed
	Total	Rs.5,90,500/-	Rs.9,38,000/-	Enhanced

Thus, the total compensation granted by the Tribunal to the tune of Rs.5,90,500/- is enhanced to Rs.9,38,000/- by this Court.

5.The 2nd respondent Insurance Company is directed to deposit Rs. 9,38,000/- (Rupees Nine Lakh Thirty Eight Thousand only) with interest at the



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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 shares (claimants 1 to 5 are entitled to Rs. 2,98,000/-, Rs.1,60,000/-, Rs.1,60,000/-, Rs.1,60,000/- and Rs.1,60,000/- respectively) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. 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.

25.06.2024

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

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To

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1. Motor Accident Claims Tribunal,
(3rd Additional District Court) 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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