



C.M.A(MD)No.51 of 2016.

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.51 of 2016,
CROSS OBJ(MD).No.23 of 2024
and
C.M.P.(MD).No.952 of 2016

C.M.A(MD)No.51 of 2016:

The New India Assurance Company Limited,
No.674, Periyakulam Main Road,
Theni - 625 531.

... Appellant/2nd Respondent

Vs.

1.Raj Bahadur Pandian
2.Santhanammal

...Respondents 1 & 2/Petitioners

3.Fathuma Bus Service,
Cumbum Road,
Theni - 625 531.

...3rd Respondent/1st Respondent

(3rd respondent exparte in Tribunal:
Notice dispensed with)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree in M.C.O.P.No.51 of 2013, dated 03.06.2015, on the file of the Motor Accident Claims Tribunal, Subordinate Court, Uthamapalayam.

For Appellant : Mr.J.S.Murali

For R1 and R2 : Mr.G.Mannarmannan



C.M.A(MD)No.51 of 2016.

CROSS OBJ (MD).No.23 of 2024:

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1.Raj Bahadur Pandian
2.Santhanammal

...Cross Objectors/ Respondents 1&2
Vs.

1.The New India Assurance Company Limited,
No.674, Periyakulam Main Road,
Theni – 625 531.

...1st Respondent/ Appellant

2.Fathuma Bus Service,
Cumbum Road,
Theni – 625 531.

...2nd Respondent/3rd Respondent

PRAYER: Civil Miscellaneous Appeal is filed under order 41 Rule 22 in C.P.C. against the Decree and Award dated 03.06.2015 made in M.C.O.P.No.51 of 2013 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Uthamapalayam.

For Appellant : Mr.G.Mannarmannan
For R1 : Mr.J.S.Murali

JUDGMENT

The Insurance Company has preferred this Civil Miscellaneous Appeal and the claimants had preferred Cross Objection.

2.It is a case of fatal. The contention of the insurance company is that the deceased was an engineering college student and the Tribunal has taken Rs.18,000/- as notional monthly income which is on a higher side. Normally, notional monthly income is fixed as Rs.8,000/- for any student and hence the Learned Counsel



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appearing for the appellant prayed to fix the notional monthly income as Rs.8,000/-.

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This Court is of the considered opinion that Rs.8,000/- would be fixed for persons like mason, painter, etc. Since the deceased is an engineering college student, this Court is fixing the notional monthly income as Rs.11,000/- with the 40% future prospects.

3. The next contention of the Insurance Company is that since the deceased was a bachelor, 50% of income ought to be deducted for personal expenses but the Tribunal has deducted only 1/3rd of income for personal expenses. It is settled issue that 50% ought to be deducted, therefore, this Court is fixing the deduction for personal expenses as 50%.

4. As far as loss of love and affection is concerned, the Tribunal has granted Rs. 2,00,000/- which is on a higher side. It is seen the parents are the claimants and hence under loss of love and affection they are entitled to Rs.40,000/- each. Considering the inflation, for loss of love and affection, this Court is fixing Rs. 90,000/- (Rs.45,000/- per claimant). The compensation granted under the other heads are confirmed.



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5. As far as the cross objection is concerned, the grounds raised in the Cross Objection are not accepted by this Court, hence, this Court is inclined to dismiss the cross objection.

6. With the above said directions, the Civil Miscellaneous Appeal is partly allowed and the Cross Objection is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(C.S-III)

(*)Corrected as per order in CMA(MD) No.51 of 2016 and Cross Obj (MD) No.23 of 2024, dated 23.01.2025.

Sd/-

Assistant Registrar (C.S-III)

// True Copy //

/01/2025

Sub Assistant Registrar
(CS - I/II/III/IV)

Tmg

(*)To be substituted the order already despatched on 20.01.2025.

To

1. The Subordinate Judge/The Motor Accident Claims Tribunal,
Uthamapalayam.

<https://www.mcaonline.org> 2.The Section Officer,



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Vernacular Records Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.VALLINAYAGAM, Advocate (SR-29528[F] dated 24/06/2024)

+1 CC to M/s.J.S.MURALI, Advocate (SR-4329[F] dated 24/01/2025)

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21.06.2024

KVL(02/01/2025) 5P 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023

KVL(02/01/2025) 5P 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023