



**C.M.A.(MD).No.364 of 2018 and**  
**Cros Obj.(MD) No.20 of 2024**

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 29.04.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

C.M.A(MD)No.364 of 2018  
and  
CROS.OBJ (MD) No.20 of 2024  
and  
C.M.P(MD) No.4786 of 2018

**C.M.A(MD) No.364 of 2018:**

M/s.TATA AIG General Insurance Company Limited,  
Represented through its Branch Manager,  
Egmore, Chennai – 600 008.

... Appellant/2<sup>nd</sup> Respondent

-vs-

1. Sathya

2. Shanthi

3. Suguna

4. Vanaja

... Respondents1 to 4/Petitioners

5. M/s.Ajith Travels,  
Represented by through its Proprietor,  
Door No.332, Palayamkottai Road,  
Thoothukudi,  
Thoothukudi District,  
Pin Code – 628 002.

... 5<sup>th</sup> Respondent/1<sup>st</sup> Respondent



**C.M.A.(MD).No.364 of 2018 and**  
**Cros Obj.(MD) No.20 of 2024**

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988, challenging the award and decree dated 17.11.2017 made in M.C.O.P.No.68 of 2014 on the file of the Motor Accident Claims Tribunal (Sub-Court), Aruppukkottai.

For Appellant : Mr.B. Vijay Karthikeyan

For Respondents : Mr.V.Sasikumar  
for R1, R3 and R4  
: No appearance – R2 and R5

**CROS. OBJ. (MD) No.20 of 2024:**

1. Sathya

2. Suguna

3. Vanaja

... Cross Objectors 1 to 3/  
Respondents 1, 3 and 4/  
Petitioners 1, 3 and 4

-VS-

1. M/s.TATA AIG General Insurance Company Limited,  
Represented through its Branch Manager,  
Egmore,  
Chennai – 600 008.

... 1<sup>st</sup> Respondent/  
Appellant/2<sup>nd</sup> Respondent

2. M/s.Ajith Travels,  
Represented by through its Proprietor,  
Door No.332, Palayamkottai Road,  
Thoothukudi,  
Thoothukudi District,  
Pin Code – 628 002.

... 2<sup>nd</sup> Respondent/  
5<sup>th</sup> Respondent/1<sup>st</sup> Respondent



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3. Shanthi

... 3<sup>rd</sup> Respondent/2<sup>nd</sup> Respondent  
/2<sup>nd</sup> Respondent

**PRAYER:** Cross Objection filed under Order 41 Rule 22 (1) of C.P.C, against C.M.A(MD) No.364 of 2018 against M.C.O.P.No.68 of 2014 on the file of the Motor Accident Claims Tribunal/Sub-Court, Aruppukottai, dated 17.11.2017 for challenging the award for a sum of Rs.10,72,025/- as a compensation and to enhance the compensation from Rs.10,72,025 to Rs.15,00,000/-.

For Cross Objectors : Mr.V.Sasi Kumar

For Respondents : Mr.B.Vijay Karthikeyan  
for R1  
: No Appearance – R2 and R3

### **COMMON JUDGMENT**

C.M.A.(MD) No.364 of 2018 has been filed by the appellant/ Insurance Company challenging the quantum of award passed in M.C.O.P.No.68 of 2014 on the file of the Motor Accident Claims Tribunal/Sub Court, Aruppukottai.

2. The claimants have filed Cross Objection (MD) No.20 of 2024 seeking enhancement of compensation.



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3. The legal heirs of the deceased claimants have filed the above claim petition seeking a compensation of Rs.15,00,000/-. According to the claimants, the deceased was a Car driver, aged about 52 years, and he was earning a sum of Rs.9,000/- per month as salary with Rs.200/- batta per day.

4. The appellant/Insurance Company has filed a counter disputing the salary and the batta.

5. The Tribunal, after considering the evidence on either side, has arrived at a notional income at Rs.6,500/- and added 15% towards future prospectus and therefore, arrived at monthly income at Rs.7,475/-. The Tribunal has deducted  $\frac{1}{4}$  towards personal expenses and applied multiplier of “11” and arrived at the compensation of Rs.7,40,025/- towards loss of income. The Tribunal has further awarded a sum of Rs.5,000/- towards Transportation charges, a sum of Rs.2,000/- towards damages to clothes, a sum of Rs.25,000/- towards funeral expenses, a sum of Rs.50,000/- towards loss of estate, a sum of Rs.50,000/- each, towards loss of love and affection to



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the claimants 2 to 4 and a sum of Rs.1,00,000/- towards loss of consortium to the first claimant. Finally, the Tribunal has arrived at total compensation of Rs.10,72,025/-. This award is under challenge in the present appeal in C.M.A (MD) No.364 of 2018, filed by the appellant/Insurance Company.

6. The learned counsel appearing for the appellant/Insurance Company had contended that the Tribunal ought not to have fixed the notional income at Rs.9,000/- per month without any proper proof. He further contended that the Tribunal ought not to have awarded a sum of Rs.1,00,000/- towards loss of consortium to the first claimant and another sum of Rs.1,50,000/- towards loss of love and affection to other claimants. He prayed for modification of the award under the above heads.

7. Per contra, the learned counsel appearing for the claimants relied upon Ex.P.11- driving license and pointed out that the deceased is a professional driver and the accident having taken place in the year 2014, the notional income fixed at Rs.9,000/- per month cannot be said to be unreasonable. He further contended that totally there are four claimants and therefore, the Tribunal was right in deducting  $\frac{1}{4}$  towards personal expenses.



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Hence, he prayed for enhancement of the amount by fixing the notional income on a higher side namely, Rs.12,100/- x 12x 11 for enhancing the award of Rs.15,97,200/- by also considering the batta received by the deceased person as a driver. He prayed for enhancement of the award from Rs.10,72,025/- to Rs.13,87,900/- .

8. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

9. The accident has taken place on 03.04.2014. A perusal of Ex.P.11- driving license indicates that the deceased was having badge and therefore he is a professional driver on the date of accident. In such circumstances, the Tribunal was not right in fixing the monthly income at Rs.6,500/- ignoring the fact that he is a professional driver. Therefore, this Court is inclined to fix the notional monthly income at Rs.9,000/- per month + Rs.200/- batta for 20 days which would come to Rs.11,000/- per month. Being in unorganized sector, the future prospectus is fixed at 10% which results in a sum of Rs.12,100/-. After adding future prospectus the total income of per annum could be at Rs.1,45,200/- after applying multiplier of “11” the loss of income



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could be at Rs.15,97,200/-.

10. Though there are four claimants, the claimants 2 to 4 are married daughters of the deceased person. Therefore, they cannot be considered to be dependants. In such an event, the Tribunal was not right in fixing the deduction towards personal expenses at  $\frac{1}{4}$ . Therefore, this Court is inclined to fix the deduction of personal expenses at  $\frac{1}{3}$ . If  $\frac{1}{3}$  is deducted from Rs.15,97,200/- it would be result in Rs.10,64,800/-.

11. In view of the above said discussions, the award of the Tribunal is reassessed as follows:

|                                                              |                      |
|--------------------------------------------------------------|----------------------|
| Loss of income                                               | : Rs.10,64,800/-     |
| Loss of consortium<br>to the first claimant                  | : Rs. 40,000/-       |
| Loss of estate                                               | : Rs. 15,000/-       |
| Funeral expenses                                             | : Rs. 15,000/-       |
| loss of love and affection<br>claimants 2 to 4<br>(3x40,000) | : Rs.1,20,000/-      |
| Transport Charges                                            | : Rs. 10,000/-       |
| Damages to clothes                                           | : <u>Rs. 2,000/-</u> |



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**Total : Rs.12,66,800/-**

12. In view of the above said deliberations, the award of the Tribunal is enhanced from Rs.10,72,025/- (Rupees Ten Lakhs Seventy Two Thousand and Twenty Five only) to Rs.12,66,800/- (Rupees Twelve Lakhs Sixty Six Thousand and Eight Hundred only) which shall carry interest at the rate of 7.5% per annum from the date of filing of the claim petition. The claimants shall be entitled to the share as fixed by the Tribunal. The appellant/Insurance Company is directed to deposit the balance amount, less the amount already deposited, along with accrued interest within a period of eight weeks from the date of receipt of a copy of this order.

13. In view of the above said facts, there are no merits in the Appeal in C.M.A(MD) No.364 of 2018. Accordingly, C.M.A(MD) No.364 of 2018 stands dismissed. The Cross Objection (MD) No.20 of 2024 stands partly allowed to the extent as stated above. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

**29.04.2024**



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

1. The Motor Accidents Claims Tribunal (Sub-Court),  
Aruppukkottai.
2. The Section Officer,  
Vernacular Records,  
Madurai Bench of Madras High Court,  
Madurai.



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**R.VIJAYAKUMAR,J.**

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