



C.M.A(MD)No.805 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.805 of 2023

1.Rameshkumar
2.Parameshwari

... Appellants

Vs.

1.Patnar

2.The Branch Manager,
New India Insurance Company Limited,
D.No.1419, Tenkasi Road,
Rajapalayam – 626 117,
Virudhunagar District.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the Order and Decree made in M.C.O.P.No.2 of 2021 dated 28.04.2023 on the file of the Motor Accident Claims Tribunal/Additional District Court, Srivilliputtur.

For Appellants	: Mr.M.Thirunavukkarasu
For R1	: No Appearance
For R2	: Mr.M.S.Sureshkumar



JUDGMENT

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The claimants have preferred this Civil Miscellaneous Appeal.

2.It is a case of fatal. The contention of the appellants is that the Tribunal has fixed the monthly income of the deceased as Rs.6500/- and has added future prospects 10%. The deceased was working as Sweeper. The minimum notional income as per the case of *Syed Sadiq Vs. United India Insurance Co. Ltd.* reported in **2014 TN MAC 459** for the year 2008 is Rs.6500/-. In the present case, the accident occurred on 24.10.2020. Therefore, the notional fixation of salary as Rs.6500/- is on a lower side. Moreover, as per *National Insurance Company Limited Vs. Pranay Sethi and others* reported in **2017 (2) TN MAC 609 (SC)**, the minimum fixation for future prospects is 10% and the same ought to be fixed.

3. It is settled proposition that without evidence, the minimum notional salary ought to be fixed as Rs.8000/-. Therefore, in the present case, since the deceased was working as a Sweeper, this Court is inclined to fix the notional fixation of salary as Rs.10,000/- with 10% future prospects.

3.The next contention of the appellants is that there are two claimants but



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the Tribunal has fixed under Loss of Consortium as Rs.40,000/-. By applying the principles of inflation this Court is inclined to fix the same as Rs.44,000/- each.

Since there are two claimants, the compensation under the head of Loss of Consortium is Rs.88,000/-.

4.The modified award amount is as under:

i.	Monthly income of the deceased	Rs.10,000/-
ii.	Loss of future income (10%)	Rs.1,000/-
Total		Rs.11,000/-
1/3 rd of income deducted towards personal expenses		- Rs.3,666/-
Total income		Rs.7,334/-

Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Loss of Income (Rs.7,334/-*12*9)	Rs.7,92,072/- (enhanced)	Rs.5,14,836/-
2.	Loss of Consortium (Rs.44,000 * 2)	Rs.88,000/- (enhanced)	Rs.40,000/-
3.	Funeral Expenses	Rs.15,000/- (confirmed)	Rs.15,000/-
4.	Loss of Estate	Rs.15,000/-(confirmed)	Rs.15,000/-
Total compensation granted by this Court		Rs.9,10,072/- (enhanced)	Total = Rs. 5,84,836/-



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5.The 2nd respondent Insurance Company shall deposit Rs.9,10,072/- 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 eight weeks from the date of receipt of a copy of this judgment. On such deposit, 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.

6. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

01.03.2024

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

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- To
- 1.Motor Accident Claims Tribunal /
Additional District Court, Srivilliputhur.
 - 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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