



C.M.A.(MD)No.1000 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.06.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A.(MD)No.1000 of 2017

1.Narayanan

2.Muthuramu (died)

... Appellants /Petitioners

Vs.

1.Sri Ram

2.Tata AIG General Insurance

Company Limited,

Peninsula Corporate Park,

Piramal Tower,

9th Floor, Ganpatrao Kadam Marg,

Lower Prel,

Mumbai-400 013.

... Respondents/Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, against the Judgment and Decree made in M.C.O.P.No.222 of 2013 on the file of the Motor Accident Claims Tribunal, (4th Additional District Court) Tirunelveli, dated 07.10.2015.

For 1st Appellant : Mr.T.Selvakumaran



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For R-1 : No appearance

For R-2 : Mr.B.Vijay Karthikeyan

JUDGMENT

The present Civil Miscellaneous Appeal has been filed by the claimants in M.C.O.P.No.222 of 2013 on the file of the Motor Accident Claims Tribunal, (4th Additional District Court) Tirunelveli, seeking enhancement of the award.

2. The parents of the deceased are the claimants. According to them, their son who was a degree holder in Mechanical Engineering aged about 26 years has passed away on 04.07.2012 due to the accident happened on 19.06.2012.

3. The claimants have primarily relied upon Ex.B-8 salary certificate which indicates that the deceased was receiving gross salary of Rs.13,600/- (Rupees Thirteen Thousand and Six Hundred only) deduction to an extent of Rs.1,015/- (Rupees One Thousand and Fifteen only) and net salary of Rs.12,585/- (Rupees Twelve Thousand Five

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Hundred and Eighty Five only). The Tribunal is taken into consideration the net salary and has arrived at notional income of deceased at Rs. 12,500/- (Rupees Twelve Thousand Five Hundred only). This portion of the award of the Tribunal has been challenged in the present Appeal.

3. According to the learned counsel appearing for the appellant, the deductions towards Provident Fund and ESI should not have been excluded for calculating the income of the deceased person. The learned counsel appearing for the appellant also relied upon the ***Judgment of Hon'ble Supreme Court reported in (2011) 11 SCC 425*** to the effect that such deductions should not be excluded while calculating the salary of the deceased person. The deductions under the head of Provident Fund and ESI have to be included and in such a situation, the salary of the deceased person would be Rs.13,550/- (Rupees Thirteen Thousand Five Hundred and Fifty only). The deceased was 26 years old and therefore, multiplier of 17 has to be applied. Hence, the loss of income of the deceased would be arrived at Rs.27,64,200/-. (Rupees Twenty Seven Lakhs Sixty Four Thousand and Two Hundred only). After deducting



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50% income towards his personal expenses etc., the total loss of income could be arrived at Rs.13,82,100/- (Rupees Thirteen Lakhs Eighty Two Thousand and Hundred only). Considering the above said facts and circumstances, the award of the Tribunal is reassessed as follows:

S.No.	Description	Amount
1.	Loss of income	Rs.13,82,100/-
2.	Medical Expenses	Rs. 3,91,574/-
3.	Transport charges	Rs. 16,950/-
4.	Loss of love and affection	Rs. 1,00,000/-
5.	Funeral Expenses	Rs. 15,000/-
6.	Loss of Estate	Rs. 15,000/-
	Total	Rs.19,20,624/-

4. Hence, this Civil Miscellaneous Appeal is partly allowed.

5. The second respondent/ Insurance Company is directed to deposit the enhanced compensation amount with 7.5% interest and costs to the credit of M.C.O.P.No.222 of 2013 on the file of the Motor Accident Claims Tribunal, (4th Additional District Court) Tirunelveli,



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within a period of eight weeks (8) from the date of receipt of copy of this

judgment, less the amount, if any already deposited. On such deposit, the

1st claimant is entitled to withdraw the amount, less the amount, if any

already withdrawn, by making necessary application before the Tribunal.

No costs.

18.06.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

Sml

To

1.The Motor Accident Claims Tribunal
(4th Additional District Court),
Tirunelveli.

2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

Sml

Judgment made in
C.M.A.(MD)No.1000 of 2017

18.06.2024