



C.M.A(MD)No.1120 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.07.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1120 of 2018

1.Nagulan

2.Leela

3.Healen

4.Anisha

... Appellants/Petitioners

Vs.

1.Vijaya

2.United India Insurance Company,
Through its Branch Manager,
2/60/3, Arasamoodu Junction,
Kulasekaram, Kanyakumari District.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Order Section 173 of Motor Vehicles Act, to enhance the amount of compensation award by order, dated 11.01.2016 in M.C.O.P.No.1240 of 2014 on the file of Motor Accident Claims Tribunal, Special Sub Court, Tirunelveli.

For Appellant : Mr.A.Sivasubramanian



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C.M.A(MD)No.1120 of 2018

For R1 : Mr.G.Thalaimutharasu

For R2 : Mr.A.Shajahan

JUDGMENT

The instant appeal has been filed by the claimants seeking enhancement of compensation of the award passed by the Motor Accident Claims Tribunal, Tirunelveli in M.C.O.P.No.1240 of 2014.

2. According to the claimants, the deceased was aged about 21 years and he was a Mechanic and he was self-employed and earning a sum of Rs.25,000/- per month. The claimants have prayed for a compensation of Rs.25,00,000/-. The tribunal has fixed the notional income at Rs.6,000/- per month and had deducted 1/3rd towards his personal expenses and applied a multiplier of 18, arrived at a compensation of Rs.8,64,000/- under the head of loss of income. The tribunal has awarded a sum of Rs.25,000/- towards funeral expenses, Rs. 1,00,000/- towards loss of love and affection, Rs.2,36,000/- towards medical expenses. Seeking enhancement of the award, the present appeal has been filed by the claimants.



C.M.A(MD)No.1120 of 2018

WEB COPY

3. According to the learned counsel appearing for the claimants, the tribunal was not right in fixing the notional monthly income of Rs. 6,000/- per month for an accident that has taken place in the year 2014 and it should be enhanced to Rs.10,000/-. He had further contended that no amount has been awarded under the head of transport expenses and loss of estate. Hence, he has prayed for enhancement of compensation.

4. Per contra, the learned counsel appearing for the insurance company has contended that the award of the tribunal is reasonable and there is no scope for any enhancement of the compensation. Hence, he prayed for dismissal of the appeal.

5. I have carefully considered the submissions made on either side and perused the material records.

6. The accident has taken place on 07.09.2014. The age of the deceased is 21 years and it is claimed that he was a Mechanic and he was earning a sum of Rs.25,000/- per month. However, no records have been placed before the Court to establish the fact that he was earning a sum of



C.M.A(MD)No.1120 of 2018

Rs.25,000/- per month. The Hon'ble Supreme Court for an accident that has been taken place in the year 2008, has fixed the notional monthly income at Rs.6,500/- in a judgment reported in **2014 1 TN MAC 459 SC (Syed Sadiq & Others Vs. The Divisional Manager, United India Insurance Company Limited)**. Therefore, it is appropriate for this Court to fix the notional monthly income at Rs.7,750/- for an accident that has taken place in the year 2014. Considering the fact that the deceased was self-employed, 40% could be added towards future prospects. The deceased was a bachelor and therefore, 50% has to be deducted towards personal expenses. Therefore, the award of the tribunal is re-assessed as follows:

Loss of income	: Rs.11,71,800/- (5425 x 12 x 18)
Funeral expenses	: Rs. 25,000/-
Loss of love & affection	: Rs. 1,00,000/-
Medical expenses	: Rs. 2,36,000/-
Transport expenses	: Rs. 10,000/-
Loss of estate	: Rs. 15,000/-
Total	: Rs.15,57,800/-



C.M.A(MD)No.1120 of 2018

7. The award of the tribunal is enhanced from Rs.12,25,000/- to Rs.15,57,800/- (Rupees Fifteen Lakhs Fifty Seven Thousand and Eight Hundred only). The amount shall carry interest at the rate of 7.5% from the date of claim petition excluding the period of default, if any. The insurance company is directed to deposit the amount within a period of eight (8) weeks from the date of receipt of copy of this order. The claimants shall share the award amount in the proportion as mentioned in the award of the tribunal. On such deposit, the claimants will be entitled to withdraw their respective share along with accrued interest and costs. The order of pay and recovery passed by the tribunal is hereby confirmed. The tribunal has awarded interest at the rate of 9% and the same is reduced to 7.5%.

8. The Civil Miscellaneous Appeal stands partly allowed to the extent as stated above. No costs.

31.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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C.M.A(MD)No.1120 of 2018

To

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- 1.The Motor Accident Claims Tribunal,
Special Sub Court,
Tirunelveli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A(MD)No.1120 of 2018

R.VIJAYAKUMAR,J.

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Judgment made in
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31.07.2024