



C.M.A(MD)No.58 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.58 of 2022

1.Ahmed Mohammad Musthafa

2.Shajitha Banu

... Appellant

Vs.

1.The Cresnet Nursery and Primary School,

Through its Correspondent,

16-2-6A, Patharkhan Palayam,

Uthamapalayam, Theni District.

2.Sukumar

3.The Oriental Insurance Company Limited,

Through its Manager,

1024B, Srivijay Complex,

Opposite to Bus Stand,

Cumbum Road, Theni.

... Respondents

*(Cause title amended, vide order of this Court,
dated 11.03.2024, in CMP(MD)No.3193 of 2024
in CMA(MD)No.58 of 2022)*

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Fair and Decreetal Order dated 15.06.2020 in M.C.O.P.No.6 of 2016, on the file of the Motor Accident Claims Tribunal cum Sub Court, Uthamapalayam.



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For Appellant : Mr.G.Vanjinathan
For R1 : No appearance
For R2 : Mr.B.Arun
For R3 : Mr.C.Jawahar Ravindran

JUDGMENT

The claimants have filed this Civil Miscellaneous Appeal.

2.It is a case of fatal. The deceased was a minor who was two and half years old. The contention of the claimants is that the Tribunal has taken only the future prospects of the deceased and failed to take the loss of income. Therefore, this Court is inclined to amend the same. As far as loss of love and affection is concerned, the claimants are the parents of the deceased child but the Tribunal has given only Rs.50,000/-. Therefore, this Court is inclined to enhance the same to Rs.96,000/- (ie., Rs.48,000/- each).

3.As far as loss of income is concerned, the calculation is as under:

Monthly income of the deceased	Rs.8,000/-
50% of income deducted towards personal expenses	50% of Rs.8,000/- =Rs.4,000/-

Rs.4,000/- * 12 * 15 = Rs.7,20,000/-



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But this Court is restricting the loss of income to Rs.5,00,000/-, since the deceased in minor aged about 2 years. Thus, the loss of income is enhanced from Rs.1,44,000/- to Rs.5,00,000/-. The Tribunal has granted Rs.15,000/- for funeral expenses and Rs.10,000/- for transportation charges. This Court is confirming the amount granted by the Tribunal in the heads of funeral expenses and transportation charges.

Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Loss of Income	Rs.5,00,000/- (enhanced)	Rs.1,44,000/-
2.	Loss of Love and Affection (Rs.48,000 * 2)	Rs.96,000/- (enhanced)	Rs.50,000 /-
3.	Funeral Expenses	Rs.15,000/- (confirmed)	Rs.15,000/-
5.	Transportation Charges	Rs.10,000/- (confirmed)	Rs.10,000/-
Total compensation granted by this Court		Rs.6,21,000/- (enhanced)	Total = Rs.2,19,000/-

4.Thus, the total compensation is enhanced by this Court from Rs. 2,19,000/- (Tribunal award) to Rs.6,21,000/-. Therefore, the 3rd respondent Insurance Company is directed to deposit Rs.6,21,000/- 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



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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.

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

11.03.2024
(1/2)

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

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To

1. Motor Accident Claims Tribunal /
Sub Court Uthamapalayam.

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



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S.SRIMATHY, J.

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