



C.M.A.(MD) No.230 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.230 of 2021

1.S.Nicholus (died),
2.Mailcy (died),
3.Micheal Nirmala. ... Appellants
(A3 is brought on record as LR of the deceased 2nd
appellant vide order dated 31.07.2024 made in C.M.P.(MD)
Nos.8118, 8122 and 8125 of 2024)

Vs.

1.Robertson,
2.National Insurance Company Ltd.,
Represented through its Branch Manager,
Office at Nagercoil,
Nagercoil Village,
Agastheeswaram Taluk,
Kanyakumari. ... Respondents

Prayer: Civil Miscellaneous Appeal filed under 173 of the Motor Vehicle Act, 1988, against the judgment and decree dated 12.03.2018 passed in M.C.O.P.No.39 of 2008 on the file of the Motor Accidents Claims Tribunal, II Additional Subordinate Judge, Nagercoil, Kanyakumari.

For Appellant : Mr.G.Aravinthan
For Respondents
for R1 : Dispensed with
for R2 : Mr.N.S.Ramakrishnadass



C.M.A.(MD) No.230 of 2021

Company, per contra, submitted that the compensation awarded by the Tribunal is just and reasonable and there is no reason to interfere with the award of the Tribunal.

6. The only point for consideration in the instant appeal is '*whether the compensation awarded by the Tribunal is just and reasonable?*'

7. The claimant had established before the Tribunal that the deceased had sustained fracture in the left leg by marking Ex.P6-Wound Certificate. The claimant had also established that the deceased spent Rs.8,082/- towards medical treatment and was hospitalised for nearly 120 days as an inpatient. The claimant, however, was unable to establish that the deceased died due to the injuries sustained in the accident and hence, the Tribunal held that the nexus between the accident and the death was not established. This Court is of the view that the said finding cannot be faulted in the light of the evidence on record. The claimant would, thus, be entitled to the compensation only for the injuries suffered by the deceased.

8. Though the Tribunal had not awarded any compensation under



C.M.A.(MD) No.230 of 2021

the head 'Pain and sufferings', this Court is of the view that it would be reasonable to award Rs.30,000/- under the said head.

9. Though the Tribunal had not awarded any compensation under the heads 'Extra nourishment' and 'Transport expenses', this Court is of the view that it would be reasonable to award a sum of Rs.5000/- each under the above heads. The compensation under the head 'Attendant charges', considering the number of days the deceased was treated as an inpatient, can be enhanced to Rs.15,000/-. Thus, the compensation awarded by the Tribunal is enhanced as follows:

<i>Sl. No</i>	<i>Description</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed, enhanced or granted</i>
1	Medical expenses	Rs. 8,082/-	Rs. 8,082/-	Confirmed
2	Attendant charges	Rs. 12,000/-	Rs. 15,000/-	Enhanced
3	Pain and sufferings	---	Rs. 30,000/-	Granted
4	Extra Nourishment	---	Rs. 5,000/-	Granted
5	Transportation	---	Rs. 5,000/-	Granted
Total		Rs. 20,082/-	Rs.63,082/-	Enhanced by Rs.43,000/-

10. The appellant/claimant shall not be entitled to the interest for the delay period of 521 days.



C.M.A.(MD) No.230 of 2021

WEB COPY 11. The second respondent/Insurance Company is directed to deposit the enhanced compensation of Rs.63,082/- (Rupees Sixty Three Thousand and Eighty Two only) together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of realization (excluding the delay period of 521 days) and costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order.

12. On such deposit, the appellant/claimant is entitled to withdraw the same together with proportionate interest and costs, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal. The appellant/claimant is directed to pay the necessary Court Fee, if any, on the enhanced amount.

13. In the result, this Civil Miscellaneous Appeal is partly allowed.

No costs.

04.09.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd



C.M.A.(MD) No.230 of 2021

WEB COPY To:

- 1.Motor Accidents Claims Tribunal,
II Additional Subordinate Judge,
Nagercoil, Kanyakumari.
- 2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD) No.230 of 2021

SUNDER MOHAN, J.

apd

C.M.A.(MD) No.230 of 2021

04.09.2024