



C.M.A(MD)No.258 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.258 of 2024

and

C.M.P.(MD)No.3169 of 2024

S.Jamaludeen

... Appellant

Vs.

1.Palaniyappan

2.Kaviarasi

3.Kanimozhi

4.Prabuanand

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, to set aside the impugned fair and decreetal order passed in M.C.O.P.No.198 of 2019 dated 23.06.2023 on the file of the Motor Accident Claims Tribunal, Tiruchirappalli.

For Appellant : Mr.R.Surya Prakash

For Respondents : Mr.S.Gokul Raj

JUDGMENT

The owner of the vehicle has filed this Civil Miscellaneous Appeal.

2.It is a case of fatal. The contention of the appellant is that the claimants had submitted that the deceased was 62 years old and was employed as Tailor, but



absolutely there is no evidence filed by the claimants to this effect. But the Tribunal has taken the notional monthly income as Rs.9,000/- and the same is erroneous.

3. Whenever there is no evidence filed to prove the avocation, then the minimum notional fixation of salary ought to be Rs.8000/-. Hence, this Court is reducing the notional fixation of salary as Rs.8,000/- with 1/3rd deduction for personal expenses. The compensation granted under other heads are confirmed.

4.The modified award amount is as under:

Monthly income of the deceased	Rs.8,000/-
Deducting 1/3 rd of income towards personal expenses	Rs.2,666/-
After deduction	Rs.5,334/-

Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Loss of Dependency (Rs.5,334/-*12*7)	Rs.4,48,056/- (reduced)	Rs.5,67,000/-
2.	Loss of Consortium	Rs.40,000 /- (confirmed)	Rs.40,000 /-
3.	Loss of Love and Affection	Rs.60,000/- (confirmed)	Rs.60,000/-
4.	Funeral Expenses	Rs.15,000/- (confirmed)	Rs.15,000/-
5.	Loss of Estate	Rs.15,000/- (confirmed)	Rs.15,000/-
Total compensation granted by this Court		Rs.5,78,056/- (reduced)	Total = Rs.6,97,000/-



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5.The appellant is directed to deposit **Rs.5,78,056/-** 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 shares (claimants 1 to 4 are entitled to Rs. 3,53,056/-, Rs.75,000/-, Rs.75,000/- and Rs.75,000/- respectively) 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. Consequently, connected miscellaneous petition is closed.

06.03.2024

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

Tmg



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To

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- 1.Motor Accident Claims Tribunal,
Tiruchirappalli.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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