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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No. 1213 of 2023

and

C.M.P(MD)No. 1175 of 2024

1. Sakkammal
2. Saranya Devi
3. Minor Sathiya Priya ... Appellants
[3rd appellant minor represented by her mother and natural guardian 1st appellant]

Vs.

1. Sakthivel
2. The Branch Manager,
Sri Ram General Insurance Company Limited,
D.No.E8 Jeypur Chittapura Industries Area,
Rajasthan State.
3. The Branch Manager,
Sri Ram General Insurance Company Limited,
Door Nos.186B and 186C,
Seethakathi (Muslim) Middle Street,
Sivakasi Town,
Virudhunagar District. ... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the Judgment and Decree passed by the Motor Vehicle Accident Claims Tribunal and Principal District and Sessions Court,



Virudhunagar District at Srivilliputtur in M.C.O.P No.28 of 201 on 07.09.2023
ad allow this Civil Miscellaneous Appeal by way of enhancing the
compensation amount.

For Appellants : Mr.M.Jothi Basu

For R-1 : No Appearance

For R-2 & R-3 : Mr.Shyllappa Kalyan

JUDGEMENT

The claimants have preferred this appeal against the Judgment and Decree, dated 07.09.2023 passed in M.C.O.P.No.28 of 2021 on the file of the Motor Vehicle Accident Claims Tribunal and Principal District and Sessions Court, Virudhunagar District at Srivilliputtur.

2. It is a case of fatal. The contention of the claimants is that, at the time of accident the deceased was working as Driver in a Private Company and the said company is doing Granite business and hence the notional salary ought to be fixed as Rs.14,000/-. The Learned Counsel appearing for the claimants submitted that though the salary certificate issued by the Private Company states the salary as Rs.14,000/-, the Tribunal has fixed only Rs. 10,000/- as monthly income of the deceased, which is absolutely on the lower side. Accepting the said contention, this Court is increasing the salary of the deceased to Rs.14,000/-.



3. As far as the loss of consortium is concerned, the Tribunal has granted a sum of Rs.1,00,000/- which is on higher side the same is reduced to Rs.50,000/-. As far as the loss of love and affection is concerned the Tribunal has granted a sum of Rs.1,50,000/- for two children and the same is on the higher side and therefore, this Court is inclined to grant a sum of Rs.48,000/- each and the total is Rs.96,000/-, for loss of love and affection. As far as transport expenses is concerned this Court is reducing into Rs.15,000/-. The rest of the compensation granted by the Tribunal under other heads are confirmed.

Monthly income of the deceased is	Rs.14,000/-
DEDUCT 1/3 personal expenses	Rs. 4,667/-

	Rs. 9,333/-
ADD 40% future prospectus	Rs. 3,733/-

	Rs. 13,066/- x 12
Annual income is	Rs.1,56,792/- x 15
15 Multiplier is applied	<u>Rs.23,51,880/-</u>

4. Accordingly, the claimants are entitled for compensation as follows:



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S. No.	Description	Amount awarded by		Award confirmed / enhanced / granted
		Tribunal	this Court	
1.	For loss of income	Rs.16,80,120/-	Rs.23,51,880/-	enhanced
2.	Loss of Consortium	Rs. 1,00,000/-	Rs. 50,000/-	reduced
3.	Loss of love and affection	Rs. 1,50,000/-	Rs. 96,000/-	reduced
4.	For funeral expenses	Rs. 25,000 /-	Rs. 25,000/-	confirmed
5.	For Transport Expenses	Rs. 25,000/-	Rs. 15,000/-	Reduced
	TOTAL COMPENSATION	Rs. 19,80,120/-	Rs.25,37,880/-	

with interest at 7.5% p.a., as awarded by the Tribunal, from the date of claim petition till the date of realization.

5. In view of the aforesaid modifications, this Civil Miscellaneous Appeal is partly allowed, and the award amount of Rs.19,80,120/- granted by the Tribunal, is enhanced to Rs.25,37,880/-. The 3rd respondent is directed to deposit the award amount with 7.5% interest along with costs, within a period of Eight weeks, from the date of receipt of copy of the Judgment, less the amount if already deposited. The claimants are entitled their share as apportioned by the Tribunal. On such deposit being made, the claimants 1 and 2 are permitted to withdraw their share as per law and the share of the minor



claimant is to be deposited in anyone of the Nationalized Bank till attains majority. The 1st claimant/mother is permitted to withdraw the interest amount of the deposited amount of the minor claimant. No costs. Consequently, connected miscellaneous petition is closed.

07.03.2024

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

To

1. The Motor Vehicle Accident Claims Tribunal/
Principal District and Sessions Court,
Virudhunagar District at Srivilliputtur
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

KSA

**Order made in
C.M.A(MD)No.1213 of 2023**

07.03.2024