



C.M.A(MD)No.50 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.50 of 2024
and
C.M.P.(MD)No.3944 of 2024

1.Tamilselvi
2.Nandhini
3.Minor N.Pradeep
(Represented by 1st Petitioner (Mother)/Natural Guardian)

Mookammal (Died)

4.Subbusami

... Appellants

Vs.

1.P.Nagarajan

2.The Branch Manager,
Oriental Insurance Company Limited,
No.1, Loyola Building, First Floor,
Salai Road, Dindigul.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the fair order dated 11.10.2023 made in M.C.O.P.No. 220 of 2019 on the file of the Motor Accident Claims Tribunal, (Additional District Judge), Dindigul.

For Appellant	: Mr.S.Pugalendi
For R1	: No Appearance
For R2	: A.Ilango



C.M.A(MD)No.50 of 2024

WEB COPY

JUDGMENT

The claimants have preferred this Civil Miscellaneous Appeal.

2.It is a case of fatal. The contention of the claimants is that the deceased was receiving pension from Indian Army. After retirement, he was carrying out agricultural activities and he was earning Rs.40,000/- per month. The contention of the 2nd respondent is that while deposing, the wife of the deceased stated in the deposition that the deceased was earning Rs.20,000/- per month. Since there was inconsistent plea, the Tribunal disbelieved the case of the claimants and fixed the notional salary of the deceased as Rs.8,000/-.

3. On perusing, it is seen that the claimants have not filed any evidence to show that the deceased was carrying on agricultural activities. Hence the income claimed by the claimants cannot be granted. At the same breath the notional income cannot be fixed as Rs.8000/-. It is seen the accident happened in the year 2018, hence the fixation of notional salary as Rs.8,000/- is incorrect. Therefore, this Court is fixing the notional salary as Rs.10,500/-. The Tribunal has fixed the loss of consortium as Rs.40,000/-, adding inflation this Court is enhancing the same to Rs.48,000/-. For loss of love and affection, there are four persons but the



WEB COPY

learned Counsel appearing for the 2nd respondent submitted that pending MCOP proceedings, one person died, therefore, three persons ought to be granted loss of love and affection. The said contention cannot be accepted because the situation prevailed at the time of accident would be the criteria for calculating the compensation eligible for the above persons. Therefore, four persons are eligible for love and affection. Therefore, this Court is fixing compensation under loss of love and affection as Rs.40,000/- per person which comes to Rs.1,60,000/-. Hence, under loss of love and affection the compensation is increased from Rs. 45,000/- to Rs.1,60,000/-. As far as transportation charges is concerned, Rs. 5,000/- granted by the Tribunal is increased to Rs.10,000/-. Loss of estate was not granted by the Tribunal, this Court is granting the same to the tune of Rs.15,000/-.

4.The enhanced award amount is as under:

i.	Monthly income of the deceased	Rs.10,500/-
ii.	Loss of future income (25%)	Rs.2,625/-
Total		Rs.13,125/-
1/4 of income deducted towards personal expenses		- Rs.3,281/-
Total monthly income		Rs.9,844/-



C.M.A(MD)No.50 of 2024

Sl.No.	Head of Compensation	Modified award granted by this Court	Award granted by the Tribunal
1.	Loss of income (Rs.9844/-*12*13)	Rs.15,35,664/- (enhanced)	Rs.11,70,000/-
2.	For loss of conjugal union	Rs.48,000/- (enhanced)	Rs.40,000 /-
3.	For love and affection (Rs.40,000 * 4)	Rs.1,60,000/- (enhanced)	Rs.45,000/- (Rs.15,000/- *3)
4.	Funeral Expenses	Rs.15,000/- (confirmed)	Rs.15,000/-
5.	Transportation charges	Rs.10,000/- (enhanced)	Rs.5,000/-
6.	Loss of Estate	Rs.15,000/-	Nil
Total compensation granted by this Court		Rs.17,83,664/- (enhanced)	Total = Rs. 12,75,000/-

5.The 2nd respondent is directed to deposit Rs.17,83,664/- 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 six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw their shares (appellants 1 to 4 are entitled to Rs.6,50,000, Rs.3,50,000/- Rs.6,00,000/- and Rs.1,83,664/- respectively) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. The Tribunal is directed to deposit the share of the minor child in a nationalized bank until the child attains majority. The first appellant herein, who is the mother/guardian, is



C.M.A(MD)No.50 of 2024

permitted to withdraw the interest amount once in three months. Once the child attains majority, his share shall be withdrawn by him.

6. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.03.2024

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

Tmg

To

1.Motor Accident Claims Tribunal /
(Additional District Judge), Dindigul.

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



WEB COPY



C.M.A(MD)No.50 of 2024

S.SRIMATHY, J.

Tmg

C.M.A(MD)No.50 of 2024

20.03.2024