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CMA No. 2956 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-06-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 2956 of 2023

1. Suseela Mary
W/o Mariyaselvam, Res at Arulampadi
Village, Sankarapuram Tk, Kallakurichi
Dt

2. John Britto
S/o Mariyaselvam, Res at Arulampadi
Village, Sankarapuram Tk, Kallakurichi
Dt

3. Michael Desosa
S/o Mariyaselvam, Res at Arulampadi
Village, Sankarapuram Tk, Kallakurichi
Dt

4. Mary Vivina
D/o Mariyaselvam, Res at Arulampadi
Village, Sankarapuram Tk, Kallakurichi
Dt

Appellant(s)

Vs

1. ABUBAKKAR



S/o Safullah, No.56/328, Pallivasal St,
Murarbad, Sankarapuram Tk,
Kallakurichi Dt

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2.The United India Insurance Company
Ltd
Kallakurichi

Respondent(s)

CMA No. 2956 of 2023

PRAYER

To enhance the amount of compensation awarded in the order passed in MCOP.No. 338 of 2021 dated 03.08.2023 on the file of the Motor Accident Claims Tribunal, (III Additional District Court), Villupuram @ Kallakurichi

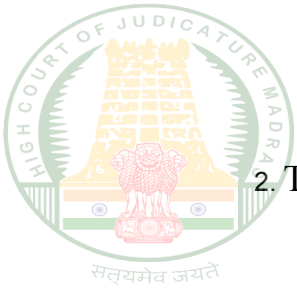
CMA No. 2956 of 2023

For Appellant(s): A.E. Ravichandran

For Respondent(s): M/s.D.Bhaskaran- For R R-1 Not
Necessary In Notice

JUDGEMENT

This Civil Miscellaneous Appeal has been filed to enhance the amount of compensation awarded in the order passed in MCOP.No. 338 of 2021 dated 03.08.2023 on the file of the Motor Accident Claims Tribunal, (III Additional District Court), Villupuram @ Kallakurichi(in shor "tribunal").



2. The Brief facts of the case:

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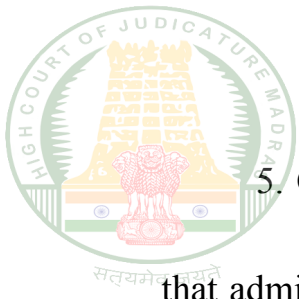
on 21-04-2020 at about 22.15 hours when the deceased was walking on the Kallakurichi to Sankarapuram main road with one Javaseelan S/o.Anthonysamy from south to north when they were nearing Ariyaperumanur Nadarajan land the vehicle bearing registration number TN-91-Y-4101 (private ambulance) from north to south has been driven by its driver in a rash and negligent manner and without abiding the road rules and hit against the deceased Mariyaselvam and thus he was sustained multiple grievous injuries and fractures in all over his body and he has been taken to Govt.hospital, Kallakurichi and then Govt. Vellore medical college hospital for his treatment. But in the vain he died on 24-05-2020 because of the above accident. Thereafter the claimants/appellants herein filed the petition before the tribunal claiming compensation of Rs.30 lakhs for the death of the deceased. The Second respondent herein/Insurance company contested the case by filing written statement. On considering the oral and documentary evidence, the Tribunal awarded Rs.1,30,000/- as compensation with 7.5% interest. Challenging the quantum of compensation the claimant filed this appeal.



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3. The learned counsel for the claimants/Appellants herein submit that the tribunal awarded very meagre sum of Rs.1,30,000/- as compensation. Further, the tribunal failed to see that in April and May 2020 there was a lockdown due to Covid 19 pandemic and there were a huge demand for hospital beds and for want of bed, the deceased Mariyaselvam was discharged from hospital within 7 days from the date of the accident and asked him to continue medication and treatment at home and within 30 days from the accident he died. Further, in his evidence, Sub Inspector of Police, Kallakurichi(RW1) stated that at the time of the accident, there was lockdown due to covid 19 pandemic and no vehicles were allowed to ply but for emergency reasons, which justifies the appellants in not taking steps for post mortem on the dead body. However, the tribunal awarded very meagre amount only for injuries not for the death of the deceased due to accident. Therefore, he seeks to enhance the compensation.

4. The learned counsel for the respondent submits that the tribunal rightly awarded compensation which needs no interference.



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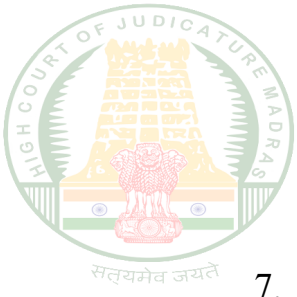
5. Considering the facts and circumstances of the case, and also the fact that admittedly at the time of the accident, there was a lockdown due to Covid 19 pandemic and there was a restriction for vehicles to ply except for emergency reasons hence the deceased was not taking to hospital for postmortem. Further, as per Ex.P2/Discharge summary, it is evident that the deceased was advised to continue medical treatment. Further, the mere absence of the postmortem certificate cannot be a reason to deny the claim of the appellants. But the tribunal erroneously awarded very meagre amount and held that the claimants not proved that the death was caused due to the accident with any medical expert. Considering the above, it is clear that the deceased was died due to the accident. Thereby, the deceased was died due to the accident. Accordingly, this Court fix Rs.13,200/- as monthly income for the deceased with 9 multiplier, and 10% for future prospects. The deceased was married hence deduct of 1/3 towards personal expenses of deceased. Accordingly, the claimants are entitled to $(13,200 + 1320) \times 12 \times 9 - (1/3) = 10,45,440/-$. Further, the claimants are entitled to Rs.1,60,000/- for loss of consortium and Rs.15,000/- for funeral expenses. Accordingly, claimants are entitled to compensation under



following heads.

S.No	Heads	Compensation awarded by the tribunal	Compensation awarded by this Court
1.	Compensation for injuries	Rs.1,00,000/-	Nil
2.	For Pain and sufferings	Rs.10,000/-	Rs.10,000/-
3.	For Transport charges	Rs.5,000/-	Rs.10,000/-
4.	For Extra Nurishment	Rs.5,000/-	Nil
5.	For loss of Earnings per month	Rs.10,000/-	Nil
6.	Annual dependency	Nil	Rs.10,45,440/-
7.	Loss of consortium	Nil	Rs.1,60,000/-
8.	Funeral Expenses	Nil	Rs.15,000/-
	Total	Rs.1,30,000/-	Rs.12,40,440/-

6. As mentioned above, the claimants/appellants herein are entitled to Rs.12,40,440/- and all are directed to share equally. Accordingly, the second respondent herein/Insurance Company is directed to deposit the above said amount to the credit of MCOP.No. 338 of 2021, on the file of the Motor Accident Claims Tribunal, (III Additional District Court), Villupuram @ Kallakurichi, with the 7.5% interest per annum from the date of petition till payment, within a period of 8 weeks from the date of receipt of a copy of this Judgement. On such deposit, the claimants are permitted to withdraw the same by filing appropriate application before the tribunal.



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7. With the above directions, the Civil Miscellaneous Appeal is partly allowed. No Costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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To

1.ABUBAKKAR

S/o Safullah, No.56/328, Pallivasal St,
Murarbad, Sankarapuram Tk,
Kallakurichi Dt

2.The United India Insurance Company
Ltd
Kallakurichi

3. The Section Officer, V.R Section, High Court, Madras.

4. The Motor Accident Claims Tribunal, (III Additional District Court),
Villupuram @ Kallakurichi.



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T.V.THAMILSELVI J.
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