



WEB COPY

CMA No. 227 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07-08-2025

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CMA No. 227 of 2024

1. SASI @

SHASHIKUMAR(DIED)1.Sinthu
W/o.Late Sasi Alias Shashikumar,
No.339, Thekkumuri, Thenur,
Palakkadu, Kerala 678 612.

2. S.Sini

D/o.late Sasi @ Shashikumar, No.339,
Thekkumuri, Thenur, Palakkadu, Kerala
678612.

3. S.Simi

D/o.Late Sasi @ Shashikumar, No.339,
Thekkumuri, Thenur, Palakkadu, Kerala
678612.Mentally challenged and
unsound person rep.by her next
friend /guardian mother / curator
Sinthu.

4. Minor.S.Swathi

Rep.by her next friend/guardian mother
Sinthu, No.339, Thekkumuri, Thenur,
Palakkadu, Kerala 678612.

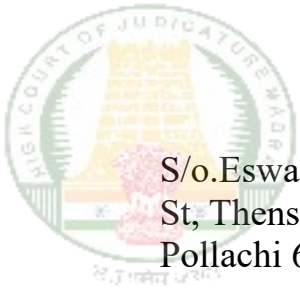
5. K.K.Muthu

W/o.late T.P.Andavan, No.339,
Thekkumuri, Thenur, Palakkadu, Kerala
678612.

Appellant(s)

Vs

1. E.Vasudevan



S/o.Eswaran, No.3/67, Vinayagar Kovil
St, Thensangampalayam, Vedasanthur,
Pollachi 642 007.

2.Vinmani Traders
No.3/226, Sri Balaji Garden,
Thensangampalayam, Vedasanthur,
Pollachi 642007.

3.ICICI Lombard General Insurance
Company Ltd,
ICICI Lombard House, 414, Veer
Savarkar Marg, Near Siddhi Vinayak
Temple, Prabhadevi, Mumbai 400 025.
Branch Office J.P.Towers, 1st
Floor,258B, Sathya Road, Erode 638
001 (policy No.
3003/117369992/01/000)

Respondent(s)

CMA No. 227 of 2024

PRAYER

To enhance the compensation amount awarded in the order dated 09.08.2023 made in M.C.O.P.No.245 of 2018 on the file of the MACT/Special Subordinate Judge, Erode.

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For Appellant(s): Mr.M.Guruprasad

For Respondent(s): Mr.P.Ponbalaj For R1
R-2 - No Appearance
R3 - Service Awaited

JUDGEMENT

This Civil Miscellaneous Appeal has been filed to enhance the compensation amount awarded in the order dated 09.08.2023 made in M.C.O.P.No.245 of 2018 on the file of the MACT/Special Subordinate Judge, Erode.



2. On 13.06.2017 at about 12.30 p.m when the deceased was walking on the extreme left side of the Aanaimaia to Udumalai road near Ayyamadai Pirivu, at that time, the first respondent drove the Mahindra Pick up Truck, bearing registration No. TN 41 L 8406 from south to North, in a rash and negligent manner dashed against the deceased and TaTa Indigo car bearing registration No. TN 37 AE 1414, due to which the deceased was thrown away and sustained multiple injuries and he was taken to hospital where he died. Thereafter, the claimants filed the petition before the tribunal claiming compensation and the second respondent contested the case by filing counter. After considering the oral and documentary evidence, the tribunal awarded compensation. Challenging the award passed by the Tribunal the claimants filed this appeal.

3. The learned counsel for the appellants/claimants submits that at that time of the accident the deceased was doing wood furniture manufacturing business earned Rs.50,000/- per month but the Tribunal has fixed only Rs. 13,000/- as notional income of the deceased and also awarded very less amount in other heads. Hence, he prays to enhance the compensation.

4. The Counsel for the first respondent appeared, none appeared for other respondents.

5. Heard the submissions on either side and perused the records.

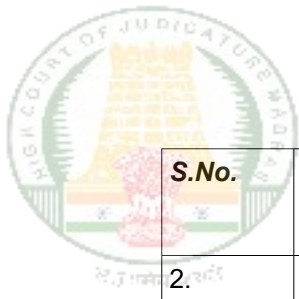
6. Considering the fact that at the time of the accident the deceased was aged about 40 years and he was doing wood furniture manufacturing business



under the name and style of Preetha Woods Works and to prove the same the claimants marked Udyog Aadhaar Memorandum as Ex.P22, which shows that it is proprietary concern but there is no income statement provided to prove the income of the deceased. However, he obtained udyog Adhaar in the year 1995 under the name of Preetha Wood workds. The accident was happened in the year 2017 though there is no proof for proper income, this Court is inclined to fix Rs.18,000/- as notional income of the deceased. Accordingly, the claimants are entitled to Rs. 30,24,000/- (18,000+4500x12x14-1/5) under the head of loss of dependency. Further, the tribunal has awarded excessive amount for funeral expenses and loss of estate. Hence, this Court is inclined to reduce the amount awarded under the head of loss of estate and funeral expenses from Rs.25,000/- to Rs.16,000/-, from Rs.50,000/- to Rs.16,000/-, respectively.

7. The deceased was in coma for one year. Hence, this Court is inclined to award Rs.14,400/- under the head of attender charge and this Court inclined to enhance the amount awarded under head of mental agony from Rs.25,000/- to Rs.2,00,000/-. Further, the tribunal has failed to award amount under the under head of loss of consortium. Hence, this Court is inclined to award Rs.1,60,000/- under the head of loss of consortium.

S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
1.	Loss of dependency	Rs.20,16,000/-	Rs.30,24,000/-



S.No.	Heads	Compensation awarded by the tribunal.	Compensation awarded by this Court
2.	Loss of estate	Rs.50,000/-	Rs.16,000/-
3.	Loss of consortium	Nil	Rs.1,60,000/-
4.	Funeral expenses	Rs.25,000/-	Rs.16,000/-
5.	Attender charges	Nil	Rs.14,400/-
6.	Mental Agony	Rs.25,000/-	Rs.2,00,000/-
7.	Medical Expenses	Rs.1,06,801/-	Nil
8.	For Love and Affection	Rs.1,00,000/-	Nil
	Total	Rs.23,22,801/-	Rs.34,30,400/-

8. In view of the discussions made earlier, the compensation awarded by the Tribunal is enhanced to Rs.34,30,400/-. The 3rd respondent is directed to deposit the said amount together with interest at the rate of 7.5% per annum from the date of claim petition to the date of realisation, to the credit of M.C.O.P.No.245 of 2018 on the file of the MACT/Special Subordinate Judge, Erode, within a period eight weeks from the date of receipt of a copy of this judgement. On such deposit being made, the claimants are permitted to withdraw their share in the award amount with proportionate accrued interest and costs, as per the ratio of apportionment made by the Tribunal, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

9. With the above direction, 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

1. The MACT/Special Subordinate Judge, Erode.

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



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T.V.THAMILSELVI J.
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