



C.M.A.No.1378 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

C.M.A.No.1378 of 2022

M/s. Oriental Insurance Company Ltd.
E.P. XV/1029, Elampalloor
Devaswam Trust Building, Kundara
Quilon, Kerala – 691 501.

.. Appellant

Vs.

1. Thangaraj
2. Malar Preethi (Minor)
3. Shruthi (Minor)
4. D.Shanmugam
5. C.Selvam

6. HDFC Bank Limited
The Branch Office, Retail Asset Division
No.6, Second Floor, Raj Bhavan
Fairlands, Brindavan Road, Salem – 16.

.. Respondents

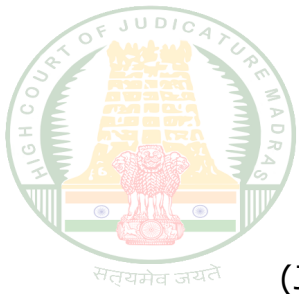
Prayer: Appeal filed under Section 173 of the Family Court Act, 1983, against the judgment and decree made in M.C.O.P.No.736 of 2011 dated 14.03.2017 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Sankagiri.

For the Appellant : Mr.M.B.Raghavan

For the Respondents : Mr.C.Mohan
and Ms.A.Rexy Josephine Mary
for M/s.King and Partridge
for R6

No Appearance for R1 to R3

R4 & R5 set *ex parte*



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JUDGMENT

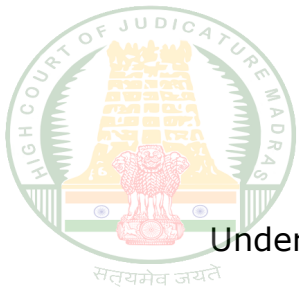
(Judgment of the Court was made by R.SURESH KUMAR, J.)

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This civil miscellaneous appeal is arising out of the award passed by the Motor Accidents Claims Tribunal, Sankagiri, that is, Subordinate Court at Sankagiri, vide order dated 14.03.2017 made in M.C.O.P.No.736 of 2011.

2. Due to the road accident that occurred on 30.03.2011, one *Jamuna*, who was riding "TVS Scooty Streek" two-wheeler along with one *Chandra*, sustained injuries, due to which, subsequently, the said *Jamuna* died. The respondents 1 to 3 are the legal heirs of the deceased *Jamuna*, who joined together and filed the said M.C.O.P., seeking compensation of a sum of Rs.10,00,000/-.

3. It was the case of the claimants before the Tribunal that the deceased *Jamuna* was an LIC Agent and was earning a sum of Rs.10,000/- per month and based on which, such compensation had been sought. The Tribunal, having considered the evidences adused before it, has come to the conclusion that the earning of the deceased *Jamuna* per month was to be fixed at Rs.8,500/-. On that basis, by applying the multiplier 16, the Tribunal, by taking the future prospects at 50%, has come to the conclusion that the loss of earning ,including the future prospects, would be at Rs.16,32,000/-.



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Under the heading "pain and suffering to claimants", the Tribunal has awarded Rs.1,13,000/- and for "loss of consortium", a sum of Rs.1,00,000/- was awarded. For "loss of love and affection" to the two children, a sum of Rs.2,00,000/-, that is Rs.1,00,000/- each, has been awarded and for "funeral expenses" Rs.25,000/- was awarded. Totally, a sum of Rs.20,70,000/- was awarded.

4. Aggrieved over the quantum of such award, the appellant Insurance Company has preferred the present civil miscellaneous appeal.

5. Heard *Mr.M.B.Raghavan*, learned counsel for the appellant and *Mr.C.Mohan* learned counsel appearing for *M/s.King and Partridge* for respondent 6. In respect of respondents 1 and 3, despite notice having been served, none appears on behalf of respondents 1 and 3, who are the main contesting respondents. Respondents 4 and 5 have been set *ex parte* already.

6. Insofar as the monthly income fixed at Rs.8,500/- is concerned, it is based on the evidences adused before the Tribunal. Therefore, we do not find any error in fixing the monthly income of the deceased *Jamuna* at Rs.8,500/-.



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7. However, insofar as the future prospects is concerned, instead of 40%, it has been taken as 50%. Therefore, we feel that only 40% is to be added. For the personal expenses, if 1/3rd is deducted, then the annual income would be Rs.1,02,000/- and if multiplier 16 is applied, the total amount would be Rs.16,32,000/-.

8. Insofar as pain and suffering is concerned, the amount to be awarded must be Rs.62,259/- only as per the medical bills. For loss of consortium, instead of Rs.40,000/-, Rs.1,00,000/- has been awarded, which can be fixed only at Rs.40,000/-. Like that, for loss of love and affection for the two children, each would be entitled to get Rs.40,000/-, totaling to Rs.80,000/-. The Rs.2,00,000/- awarded in this heading, i.e., for "loss of love and affection", is to be reduced to Rs.80,000/-. Insofar as the funeral expenses of Rs.20,000/- is concerned, the same has to be fixed only at Rs.15,000/-.

9. Therefore, the following modified quantum would be appropriate for making the award for the claimants:-



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Heads of Compensation	Amount awarded by the Tribunal	Modified Award Amount
Monthly Income	Rs.8,500/-	Rs.8,500/-
Future Prospects 40% addition	Rs.12,750/-	Rs.12,750/-
Personal Expenses 1/3 rd deduction	Rs.8,500/-	Rs.8,500/-
Annual Income	Rs.1,02,000/-	Rs.1,02,000/-
Multiplier - 16	Rs.16,32,000/-	Rs.16,32,000/-
Pain and suffering & Medical bills	Rs.1,13,000/-	Rs.62,259/- (Medical Bills alone)
Loss of Consortium	Rs.1,00,000/-	Rs.40,000/-
Loss of love and affection for minor children	Rs.2,00,000/-	Rs.80,000/-
Funeral expenses	Rs.25,000/-	Rs.15,000/-
Loss of estate	---	Rs.15,000/-
Total	Rs.20,70,000/-	Rs.19,76,009/-

10. Therefore, we are inclined to modify the impugned award to the aforesaid figures, that is totaling to Rs.19,76,009/- instead of Rs.20,70,000/-.

11. In this context, it is further to be noted that the very claim made before the Tribunal by the claimants itself is only for a sum of Rs.10,00,000/-. Since the Tribunal, in all aspects, has correctly calculated the compensation, except minor variations which we



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have corrected herein, the impugned award is modified to the aforesaid effect and resultantly, this civil miscellaneous appeal is allowed in part. However, there shall be no order as to costs.

12. The appellant Insurance Company is directed to deposit the entire modified amount as per this order after deducting any amount that has already been deposited within a period of two months from the date of receipt of a copy of this order and on such deposit being made, the claimants are entitled to withdraw the entire amount without any further reference to any other proceedings. Consequently, C.M.P.No.9967 of 2022 is closed.

(R.S.K., J.) (A.D.M.C., J)
20.02.2025

Neutral Citation:Yes/No

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R. SURESH KUMAR, J.
AND
A. D. MARIA CLETE, J.

(drm)

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

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R4 & R5 set *ex parte*

JUDGMENT

(Judgment of the Court was made by R.SURESH KUMAR, J.)

At the instance of the learned counsel appearing for the appellant, this civil miscellaneous appeal is listed today under the caption "for clarification".

2. In paragraph 7 of the order dated 20.02.2025, while calculating the award amount, there has been a mistake in calculation. Therefore, in order to rectify the same, paragraph 7 of the order stands corrected as thus:-

"7. However, insofar as the future prospects is concerned, instead of 40%, it has been taken as 50%. Therefore, we feel that only 40% is to be added. For the personal expenses, if 1/3rd is deducted, then the annual income would be Rs.95,200/- and if multiplier 16 is applied, the total amount would be Rs.15,23,200/-."

3. Resultantly, the Table at paragraph 9 of the order dated 20.02.2025 shall be replaced with the following Table:-



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Heads of Compensation	Amount awarded by the Tribunal	Modified Award Amount
Monthly Income	Rs.8,500/-	Rs.8,500/-
Future Prospects	Rs.12,750/-	Rs.11,900/-
Personal Expenses 1/3 rd Deduction	Rs.8,500/-	Rs.7,933/-
Annual Income	Rs.1,02,000/-	Rs.95,200/-
Multiplier – 16	Rs.16,32,000/-	Rs.15,23,200/-
Pain and Suffering & Medical Bills	Rs.1,13,000/-	Rs.62,259/-
Loss of Consortium	Rs.1,00,000/-	Rs.40,000/-
Loss of Love and Affection for minor children	Rs.2,00,000/-	Rs.80,000/-
Funeral Expenses	Rs.25,000/-	Rs.15,000/-
Loss of Estate	---	Rs.15,000/-
Total	Rs.20,70,000/-	Rs.17,35,459/-

4. Paragraph 10 of the order dated 20.02.2025 stands corrected as follows:-

“10. Therefore, we are inclined to modify the impugned award to the aforesaid figures, that is totaling to Rs.17,35,459/- instead of Rs.20,70,000/-.”



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4. Registry is directed to issue the corrected copy of the order to the parties. The remaining portion of the order dated 20.02.2025 shall be unaltered. Accordingly, the present motion for clarification stands ordered.

(R.S.K., J.) (A.D.M.C., J)
10.03.2025

Neutral Citation:Yes/No

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R. SURESH KUMAR, J.
AND
A. D. MARIA CLETE, J.

(drm)

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10.03.2025