



C.M.A.(MD) No.631 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

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1.D.Subburaj (died)

2.S.Gokila

3.Minor S.Jothiprakash

Represented by his mother and guardian

S.Gokila/2nd appellant

4.R.Ramu

5.S.Devamsam

... Appellants

vs.

1.S.Bharathi

2.M/s.United India Insurance Company Limited

through its Divisional Manager,

No.7, West Veli Street,

Madurai – 625 001.

... Respondents

(A2 to A5 were brought on record as the

LRs of the deceased A1 vide M.P.(MD)No.2 & 3/2012

dated 05.10.2015)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1973, against judgment and decree dated



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09.07.2007 passed in M.C.O.P.No.1963 of 2002 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.1, Madurai.

For appellants : Mr.PT.S.Narendra Vasan

For Respondents

For R1 : Dispensed with

For R2 : Mr.B.Rajesh Saravanan

J U D G M E N T

Not being satisfied with the Award dated 09.07.2007 in M.C.O.P.No.1963 of 2002 by the Motor Accidents Claims Tribunal, Additional District Court/Fast Track Court No.1, Madurai, the claimant/first appellant herein, has filed this appeal for enhancement of compensation.

2. During the pendency of this appeal, the claimant/first appellant died on 15.07.2011 and his legal heirs were impleaded as appellant Nos.2 to 5 (wife, son and parents).

3. From the medical records, it is deducible that the claimant/first appellant had suffered segmental fracture of right femur, due to which,



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the implants were fixed and thereafter, they were removed. Further, he had suffered both bone fracture in the right leg and for that, he had undergone six surgeries and he was suffering of non-union of the same with the problem of shortening of leg. As the claimant/first appellant is no more, the legal heirs are not entitled to any enhancement under non-pecuniary loss.

4. In consideration of the abovesaid details, for transport expenses, for extra nourishment and for attendant charges, an amount of Rs.15,000/- is granted under each head in addition to the amount already granted by the Tribunal. The Tribunal has awarded a sum of Rs.5,39,998/-. The said amount is enhanced to Rs.5,84,998/- (Rs.5,39,998/- + Rs.45,000/-).

5. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from



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Rs.5,39,998/- to Rs.5,84,998/-.

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(iii) The second respondent/Insurance Company is directed to deposit the enhanced compensation amount of Rs.5,84,998/- (less the amount already deposited if any) with interest at 7.5% p.a. from the date of filing of the claim petition till the date of realisation to the credit of M.C.O.P.No.1963 of 2002 on the file of Motor Accidents Claims Tribunal, Additional District Court/Fast Track Court No.1, Madurai, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the second appellant/wife is entitled to Rs.1,64,998/-, the appellants 3 to 5/son and parents each are entitled to Rs.1,40,000/-. The claimants/appellants 2 to 5 are permitted to withdraw their share amount with proportionate interest, after adjusting the amount, if any already withdrawn by them or by the deceased claimant/first appellant, by filing necessary application before the Tribunal.



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(v) The claimant/third appellant, then minor in the year 2012, on appropriate application, is at liberty to withdraw his share of amount;

(vi) The claimants/appellants 2 to 5 are directed to pay the Court fee for the enhanced compensation amount, if required.

(vii) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimants.

29.01.2025

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

To

1.The Special Subordinate Judge,
The Motor Accidents Claims Tribunal/Additional District Court,
Fast Track Court No.1, Madurai.

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



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R.KALAIMATHI,J

apd

Pre-delivery order made in
C.M.A.(MD) No.631 of 2009

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