

C.M.A.(MD) No. 650 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.01.2025

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.(MD) No. 650 of 2010

1.Ponnambalam
2.P. Samundeswari
3.Arun Prasad

... Appellants

VS.

1.Shahjahan
2.United India Insurance Company Limited,
Divisional Office-3, 91, Kamarajar Salai,
Madurai.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in M.C.O.P.No.252 of 1999 on the file of the Fast Track Judge, Motor Accident Claims Tribunal, Ramanathapuram.

For Appellants : Ms. Jayashree Ramesh

1st Respondent : No Appearance

For 2nd Respondent : Mr. A.S. Mathiyalagan



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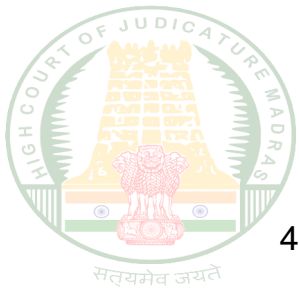
JUDGMENT

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This Civil Miscellaneous Appeal has been preferred by the dependants of the deceased Meena, against the award dated 27.09.2005 made in M.C.O.P. No.252 of 1999 by the Motor Accident Claims Tribunal / Additional District Fast Track Court, Ramanathapuram, for enhancement of compensation.

2. It has come on record through the evidence of P.W.1 / Ponnambalam (husband of the deceased) that his wife was working as a Manager in a printing press and earning a sum of Rs.3,000/- per month at the relevant point of time. To substantiate the said factum, one Ramamoorthi (P.W.2) has been examined, said to be the owner of the printing press. It is his evidence that the deceased Meena was working in his press, as Manager and earning a sum of Rs.3,000/- per month and her salary certificate is Ex.P6.

3. The Tribunal has rightly observed that P.W.2 has not produced the attendance register and the salary register. Due to the non-production of the said registers and the fact that the claimants are not dependent upon the income of the deceased, based on no fault liability, an amount of Rs.50,000/- was granted.



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4. Upon consideration of the above said details, the notional income of the deceased is safely fixed at Rs.1,000/-. As per Ex.P5 / SSLC certificate, the date of birth of the deceased is 30.05.1959. The date of accident is 29.05.1997. Her age is fixed at 37 years at the relevant point of time.

5. As per the law laid down by the Hon'ble Supreme Court in **National Insurance Co. Ltd., v. Pranay Sethi and others** reported in **2017 (2) TN MAC 609 (SC)**, the future prospects for computing the income for the persons below 40 years, 40% has to be added. As the claimants are 3 in number, 1/3rd has to be deducted for personal and living expenses.

6. As per the law laid down by the Hon'ble Supreme Court in **Smt.Sarla Verma & Ors., v. Delhi Transport Corporation & Another** reported in **2009 (2) TN MAC 1 (SC)**, the relevant multiplier to be adopted is 15m.

7. Based on the afore stated details, loss of dependency is computed as follows: -

Age of the deceased	= 37 years
Notional Income fixed	= Rs.1,000/-

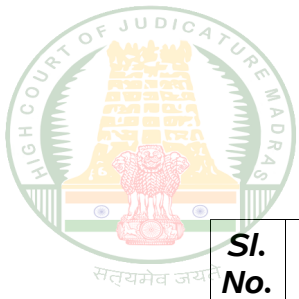


Age of the deceased	= 37 years
40% Future Prospects to be added	= Rs.1,000/- + 40% = Rs.1,400/-
Deduction for personal and living expenses to be made	= 1/3 Rs.1,400/- – Rs.466/- = Rs.934/-
Multiplicand to be adopted	= 15m
Rs.934/- X 12 X 15	= Rs.1,68,120/-

8. For loss of estate, considering the fact that the accident took place in the year 1997, an amount of Rs.5,000/- is granted.

9. As regards the other heads, the amounts granted by the Tribunal appears to be reasonable and acceptable and hence, it needs no interference. Thus, the compensation awarded by the Tribunal is reworked and tabulated below: -

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of dependency	Rs. 50,000/-	Rs.1,68,120/-	Enhanced
2	For Loss of consortium	Rs. 15,000/-	Rs. 15,000/- (for A1)	Confirmed
3	For Loss of love and affection	Rs. 20,000/-	Rs. 20,000/- (for A2 & A3)	Confirmed
4	For Funeral expenses	Rs. 5,000/-	Rs. 5,000/-	Confirmed
5	For Loss of estate	NIL	Rs. 5,000/-	Granted



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<i>Sl. No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed or enhanced or granted or reduced</i>
	Total	Rs.90,000/-	Rs.2,13,120/-	
	Rounded off to		Rs.2,13,000/-	

10. Thus, the compensation awarded by the Tribunal is enhanced from **Rs.90,000/-** to **Rs.2,13,000/-** which would carry interest at the rate of 7.5% per annum.

11. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from **Rs.90,000/-** to **Rs.2,13,000/-**.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., **Rs.2,13,000/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.252 of 1999, on the file of the Fast Track Judge, (Motor Accident Claims Tribunal) Ramanathapuram, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per apportionment made by the Tribunal



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along with interest and costs, less the amount if any already withdrawn, by making necessary cheque application before the Tribunal. The appellants/claimants are directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court fee by the claimants.

28.01.2025

Index : Yes/No
AT

To:

- 1.The Fast Track Judge, (Motor Accident Claims Tribunal)
Ramanathapuram.
2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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R.KALAIMATHI, J.

AT

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