



C.M.A.(MD)No.417 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.03.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

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1.Padmavathy @ Padma

2.Minor.Radhika

3.Minor.Subramanian

4.Minor.Ranjith

5.Minor.Ramani

Minor respondents 2 to 5 are
represented by their mother &
guardian 1st appellant herein

... Appellants / Petitioners

Vs.

1.R.Shenbagavalli

2.The Branch Manager,
New India Assurance Company Ltd.,
Perambalur.

3.Rajammal

... Respondents / Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 08.07.2011 made in M.C.O.P.No.24 of 2010 on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Thanjavur at Kumbakonam.



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For Appellants : Mr.S.Sivathilagar

R-1 & R-3 : Notice dispensed with

For R-2 : Mr.J.S.Murali

JUDGMENT

Challenging the award of the learned Motor Accident Claims Tribunal / Chief Judicial Magistrate, Thanjavur at Kumbakonam in M.C.O.P.No.24 of 2010 dated 08.07.2011, the claimants have filed this appeal seeking enhancement of the award.

2.For the sake of convenience, the parties herein are referred as per their ranking before the Tribunal.

3.The appellants are the legal heirs of the deceased Rajamanickam, that is, the wife and four minor children. On 01.09.2008, the said Rajamanickam was travelling in an auto bearing registration No.T.N.49-X-6918 from Sakkottai to Kumbakonam. At about 11:30 PM, the auto could not run further because of the inadequacy of petrol, as a result of which, the said Rajamanickam and other passengers pushed the auto. While the auto was nearing



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Manickanatchiarkoil, one passenger bus bearing registration No. T.N. 46-C-9761 came behind the auto in a rash and negligent manner and dashed against the auto. As a result of which, the said Rajamanickam sustained grievous injuries and died on the spot. In this regard, the criminal case was registered against the Transport Corporation bus in crime No.126 of 2008 under Section 279, 337 and 304(A) of IPC. At the time of his death, he was doing business, earning an amount of Rs. 9000/- (Rupees Nine Thousand only) per month.

4.The learned Tribunal examined two witnesses PW-1 and PW-2 and marked Exhibit P1 to P8 on the side of the petitioners and neither witnesses were examined nor documents were marked on the side of the respondents. On the basis of the arguments made by both the parties, evidence deposed and the documents marked, the learned Tribunal awarded a compensation of Rs.6,29,600/- (Rupees Six Lakhs Twenty Nine Thousand and Six Hundred only). Challenging the same, seeking an enhancement, the claimants have preferred this appeal.

5.The learned counsel for the appellant claimants, Mr.S.Sivathilagar submitted that the deceased was a businessman who



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was earning an amount of Rs.9000/- (Rupees Nine Thousand only) per month. However, the learned Tribunal had fixed a notional income of the deceased at Rs.3000/-, (Rupees Three Thousand only), out of which 1/5th was deducted and thereafter taking Rs.2600/- (Rupees Two Thousand and Six Hundred only) as monthly notional income proceeded to pass an award of Rs.4,89,600/- (Rupees Four Lakhs Eighty Nine Thousand and Six Hundred only) under the head loss of income. The same need to be modified since, though the original accident claim was filed for an amount of Rs.12,00,000/- (Rupees Twelve Lakhs only), the award passed by the Tribunal was only to the tune of 6,29,600/- (Rupees Six Lakhs Twenty Nine Thousand and Six Hundred only). Now by way of this appeal the claimants have further limited their claim to only to Rs.3,00,000/- (Rupees Three Lakhs only) and hence the notional income ought to have been taken as Rs.4500/- (Rupees Four Thousand and Five Hundred only) and pressed for allowing the Civil Miscellaneous Appeal.

6.Per contra, the learned counsel appearing for the insurance company, Mr.J.S.Murali, categorically submitted that the accident was of the year 2008, that is, at least before a period of 17 years from today and hence the notional income calculated by the learned tribunal need



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not be interfered and pressed for dismissing the appeal.

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7.Heard the learned counsels on either sides and carefully perused the materials available on record.

8.Considering the total number of minor claimants, I am of the considered view that the notional monthly income ought to have been arrived at Rs.4500/- (Rupees Four Thousand and Five Hundred only) and after deducting 1/4th for the personal expenses of the deceased, the notional monthly income could be modified into Rs.3375 x 15 x 12 and the total loss of income would be arrived at Rs.6,07,500/- (Rupees Six Lakhs and Seven Thousand Five Hundred only).

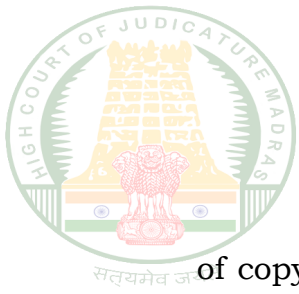
9.Considering all the above circumstances, the award passed by the Tribunal is modified as follows:



S. No.	Description	Amount awarded by the Tribunal Rs.	Amount awarded by this Court Rs.	Award confirmed or enhanced
1.	Loss of income	Rs. 4,89,600/-	Rs.6,07,500 /-	enhanced
2.	Loss of love and affection	Rs. 50,000/-	Rs. 50,000/-	confirmed
3.	Loss of consortium	Rs. 50,000/-	Rs. 50,000/-	confirmed
4.	Cremation charges	Rs. 20,000/-	Rs. 20,000/-	confirmed
5.	Transportation	Rs. 20,000/-	Rs. 20,000/-	confirmed
	Total	Rs. 6,29,600/-	Rs.7,47,500/-	enhanced

10. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the learned Tribunal at 6,29,600/- (Rupees Six Lakhs Twenty Nine Thousand and Six Hundred only) is hereby enhanced to Rs.7,47,500/- (Rupees Seven Lakhs Forty Seven Thousand and Five Hundred only).

11. The 2nd respondent insurance company is directed to deposit the enhanced compensation amount with accrued interest and costs to the credit of M.C.O.P.No.24 of 2010 on the file of the Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Thanjavur at Kumbakonam, within a period of eight weeks (8) from the date of receipt



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of copy of this judgment, less the amount, if any already deposited. On such deposit, the appellants / claimants are entitled to get their shares as per the apportionment fixed by the Tribunal, less the amount, if any already withdrawn, by making necessary application before the Tribunal. The 1st appellant / claimant is permitted to withdraw her share together with interest and the share of the minor appellants 2 to 5 shall be deposited in any one of the Nationalised Banks till they attain majority. The 1st appellant who is the mother of the minor claimants is permitted to withdraw the interest of minors once in three months directly from the Bank. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. No costs.

17.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml
ToThe Motor Accident Claims Tribunal /
Chief Judicial Magistrate, Thanjavur
at Kumbakonam

Copy to

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

Sml

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