



C.M.A. No. 77 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 28.01.2025

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.(MD) No. 77 of 2023

1.S. Muthu

2.M. Radhiammal

... Appellants

VS.

1.P. Muthuraj

2.The Divisional Manager,
Oriental Insurance Company Ltd.,
1024-J, Sri Vijaya Complex, II Floor,
Cumbum Road, Theni.

3.Ravi

4.The Divisional Manager,
United India Insurance Company Ltd.,
Door No.19/1, First Floor,
Kalpana Complex, Birds Road,
Trichy – 620 001.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the fair and decreetal order dated 30.08.2022 in M.C.O.P. No. 75 of 2017 on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Court, Theni at Periyakulam.

For Appellant : Mr. K. Kumaravel



WEB COPY



C.M.A. No. 77 of 2023

1st Respondent : No Appearance
For 2nd Respondent : Mr. C. Karthik

J U D G M E N T

Being not satisfied by the judgment and decree passed in M.C.O.P. No. 75 of 2017 dated 30.08.2022 on the file of Motor Accident Claims Tribunal / Additional District and Sessions Court, Theni at Periyakulam, the legal heirs of Bekkamman have preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2. Despite the receipt of notice, first respondent neither appeared nor entered appearance through counsel.

3. Heard the arguments of learned counsel for the appellant and the learned counsel for the second respondent / Insurance Company.

4. Learned counsel for the appellant would vehemently contend that notional income of the deceased was fixed at Rs.10,000/- by the Tribunal is less and no amount was granted for loss of estate.



C.M.A. No. 77 of 2023

WEB COPY

5. It has come on record through the evidence of P.W.1 that the deceased was aged about 24 years. At the relevant point of time, he was working as Mason and earning a sum of Rs.20,000/- per month. In order to substantiate the income, Ex.P8 certificate has been issued by the District President of AITUC. This cannot be taken as a proof for income and the Tribunal has correctly rejected the same. The Tribunal has fixed the notional income of the deceased at Rs.10,000/- by adding 40% towards future prospects, after deducting 50% towards the personal and living expenses, the income was fixed at Rs.7,000/-. This Court deems fit to fix the notional income of the deceased as Rs.11,000/- per month.

6. The appellants 1 and 2 are the parents of the deceased. As per the law laid down by the Hon'ble Supreme Court in ***Smt.Sarla Verma & Others v. Delhi Transport Corporation and another*** reported in **2009 (2) TN MAC 1 (SC)**, the deduction for personal and living expenses is 1/3rd if the number of dependent in family members are 2 to 3. As per Ex.P5 / copy of the Driving License, the date of birth of the deceased is mentioned as 18.06.1992. The date of accident is 29.08.2016. The age of the deceased at the relevant point of time was 24 years. As per the law laid down by the Hon'ble Supreme Court in ***Sarla Verma's*** case (as mentioned



supra), the relevant multiplier to be adopted is 18. Based on the above said details, the **loss of dependency** is re-worked as follows:

$$\text{Rs.11,000/-} + 40\% - \frac{1}{3} \times 12 \times 18 = \text{Rs.22,17,672/-}$$

7. Further, for loss of estate, an amount of Rs.15,000/- is granted. For transport expenses and for funeral expenses, an amount of Rs.5,000/- under each head is granted, in addition to the amount already granted by the Tribunal. As regards the other heads, the amounts awarded by the Tribunal appears to be reasonable and acceptable, which needs no interference. Therefore, the compensation awarded by the Tribunal is reworked and tabulated, as given hereunder: -

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	Loss of Income	Rs.14,28,000/-	Rs.22,17,672/-	Enhanced
2	Transport Expenses	Rs. 10,000/-	Rs. 15,000/-	Enhanced
3	Loss of cloth	Rs. 2,000/-	Rs. 2,000/-	Confirmed
4	Loss of love and affection Rs.1,00,000/- each	Rs.2,00,000/-	Rs. 2,00,000/-	Confirmed
5	Funeral expenses	Rs. 10,000/-	Rs. 15,000/-	Enhanced
6	Loss of estate	Nil	Rs. 15,000/-	Granted
	Total	Rs.16,50,000/-	Rs.24,64,672/-	
	Rounded off to		Rs.24,65,000/-	



C.M.A. No. 77 of 2023

WEB COPY

8. Thus, the compensation awarded by the Tribunal is enhanced from **Rs.16,50,000/-** to **Rs.24,65,000/-** which would carry interest at the rate of 7% per annum.

9. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from **Rs.16,50,000/-** to **Rs.24,65,000/-**.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., **Rs.24,65,000/-** (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.75 of 2017, on the file of the Motor Accident Claims Tribunal / Additional District and Sessions Court, Theni at Periyakulam, 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 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



C.M.A. No. 77 of 2023

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 Motor Accident Claims Tribunal /
Additional District and Sessions Court, Theni at Periyakulam.
2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A. No. 77 of 2023

R.KALAIMATHI, J.

AT

C.M.A.(MD) No. 77 of 2023

28.01.2025