BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CMA(MD)No.666 of 2021
and
CMP(MD)No.6288 of 2021

The Branch Manager,
M/s. National Insurance Company Limited,
Madurai Branch Office,
No.3, North Veli Street,
Madurai. : Appellant/Respondent No.2

Vs.

Jayakumar (Died)
1.Pradhipa
2.Minor Srinithi
3.Minor Srijana
4.Minor Jairam Baskar
5.Kanimozi
(Minor Respondents 2 to 4 are represented
through their Mother/Natural Guardian
1st Respondent, Pradhipa) : Respondents 1 to 5/Petitioners
6.Pandi : 6th Respondent/1st Respondent
(R6 set *ex parte* in Tribunal: Notice dispensed with)

Prayer :- This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree in MCOP.No.508 of 2018, dated 17/03/2020 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Madurai.

For Appellant : Mr.J.S.Murali
For Respondents : Mr.M.Pitchaimuthu for R1 to R4
Mr.D.Balamurugapandi for R5

JUDGMENT

(Judgment of the Court was made by **P.VELMURUAN, J.**)

The present appeal has been filed by the insurance company challenging the quantum of compensation awarded by the Tribunal in MCOP.No.508/2018, dated 17.03.2020.

2. The learned counsel for the appellant would submit that the accident had occurred on 20.01.2018 and prior to the accident, the deceased was running a business in the name of style of J.K.Metals and as per Ex.P27-Income Tax Returns filed by the said company for the assessment years 2017-2018 and 2018-2019, a sum of Rs.3.56,363/- was shown as annual income for the assessment year 2017-18. After the accident, for the subsequent assessment year i.e., 2018-2019, the annual income was shown as Rs.1,04,990/-. Therefore, even after the death of

the deceased, there was no total loss of income and the Tribunal failed to consider the fact that the deceased died even before the completion of the financial year 2018-2019 and therefore, fixation of annual income by the Tribunal at Rs.3,50,000/- relying upon the income tax returns filed by the deceased for the financial year 2018-19 is erroneous. Thus, he would pray for modification of the income of the deceased. Except the above, the learned counsel did not dispute the award under other heads.

3. The learned counsel for the respondents 1 to 5/claimants would submit that the income tax returns for the assessment year 2017-18 is prior to the death of the deceased and after the death, there was a total loss of income. Further, the discretionary power has been given to the Tribunal and therefore, the Tribunal has exercised its discretion and taken the income as mentioned in the income tax returns for the assessment year 2017-18 and therefore, the award passed by the Tribunal reflects just compensation and there is no need to set aside or modify the same.

4. Heard both sides and perused the records.

5. The accident is not in dispute. The liability of the appellant is also not in dispute. The only dispute is the quantum of compensation. Though the claim petition was originally filed by the injured claimant Jayakumar, pending claim petition, he died and therefore, his legal representatives have been impleaded as parties and they prosecuted the claim petition and in the said claim petition, the Tribunal considering the income tax returns filed by the injured claimant for the assessment year 2017-18, fixed the annual income of the deceased at Rs.3,50,000/-, but in the very same Ex.P27, the income tax returns filed for the subsequent assessment year 2018-19 also has been marked, which shows the annual income at Rs.1,04,990/-. Therefore, a combined reading of both the income tax returns for the assessment years 2017-18 and 2018-19 shows that even after the accident, there was no total loss of income and after the accident and death of the deceased also, the company of the deceased was able to earn the income of Rs.1,04,990/-. Therefore, considering the income tax returns filed by the claimants which has been marked as Ex.P27, this Court is inclined to fix the annual income of the deceased at Rs.2,50,000/-. After adding 40% of income (Rs.1,00,000/-) towards future prospects of the deceased, the income

comes to Rs.3,50,000/-. After deducting 1/4th of income (Rs.87,500/-) towards the personal and living expenses of the deceased and applying multiplier 15, the compensation under the head 'loss of dependency' is calculated at Rs.39,37,500/- (Rs.2,62,500 x 15). Thus, the award of the Tribunal at Rs.55,12,500/- towards loss of dependency is reduced to Rs. 39,37,500/-. Except the above, the award under other heads is confirmed. Ultimately, the total compensation is modified and apportioned as hereunder:

Loss of dependency	=	Rs.39,37,500/-
Loss of love and affection	=	Rs. 15,000/-
Loss of consortium	=	Rs. 40,000/-
Funeral expenses	=	Rs. 15,000/-
Medical Expenses	=	Rs.20,80,400/-
Total	=	Rs.60,87,900/-
(Less) Award of Tribunal	=	Rs.76,62,900/-
Reduction	=	Rs.(-)15,75,000/-

6. The respondents 1 to 5/claimants are entitled to modified compensation of Rs.60,87,900/- with 7.5% interest per annum from the date of claim petition till the date of deposit. It is represented by the learned counsel for the appellant that the appellant has already deposited the entire award amount with interest and costs as awarded

by the Tribunal to the credit of the claim petition. In view of the reduction on the quantum of compensation, the Tribunal is directed to refund the excess amount if any, to the appellant. The respondents 1 and 5 / major claimants are directed to withdraw their respective shares in the ratio apportioned by the Tribunal along with proportionate interest and costs by making appropriate application before the Tribunal. The shares of the respondents 2 to 4/minor claimants shall be deposited in a Nationalised Bank in Fixed Deposit till they attain majority. The interest accruing on such deposit is permitted to be withdrawn by the 1st respondent/mother of minors once in three months directly from the Bank.

7. With the above modification, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

[P.V, J.] **[L.V.G, J.]**
06.11.2025

Index : Yes / No
Neutral Citation : Yes / No
bala

To

The Judge,
Motor Accident Claims Tribunal/
Chief Judicial Magistrate Court,
Madurai.

P.VELMURUGAN, J.
AND
L.VICTORIA GOWRI, J.

bala

JUDGMENT MADE IN
CMA(MD)No.666 of 2021

DATED : 06.11.2025