



C.M.A(MD)No.42 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2025

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.A(MD)No.42 of 2023

1.Anna Mariyal
2.Minor Pon Rama Siva
(Minor petitioner through
her mother and next guardian
1st appellant herein)

... Appellants/Petitioners

-Vs-

1.Thangadurai
2.The New India Assurance Company Ltd.,
Through its Branch Manager,
No.10/57, Main road,
Sawyerpuram,
Tuticorin District.

... Respondents/Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1998, as against the judgment and decree dated 29.04.2022, passed in MCOP No.1313 of 2018 by the learned Motor Accident Claims Tribunal/IV Additional District Judge, Tirunelveli.

For Appellants : Mr.T.Selvakumaran
For R2 : Mr.C.Karthik



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J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the dependents of the deceased Thangadurai against the award dated 29.04.2022 passed in MCOP No.1313 of 2018 by the Motor Accident Claims Tribunal/IV Additional District Judge, Tirunelveli.

2.Heard the arguments of the learned counsel for the appellants and the learned counsel for the second respondent.

3.Upon consideration, the Tribunal awarded a sum of Rs.23,57,300/-. For loss of dependency, a sum of Rs.22,50,000/-, for loss of consortium, a sum of Rs.50,000/-, for loss of estate and love and affection, a sum of Rs.25,000/-, for funeral expenses, a sum of Rs.15,000/- and for medical expenses, a sum of Rs.17,300/-.

4.The learned counsel for the appellants would vehemently argue that the deceased was self-employed person running a company under the name and style of J.N.F Services and he was earning a sum of Rs.15,000/-



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per month. To substantiate the same, P.W.3 and P.W.4, who are running shipping service, have been examined. Ex.P.4 is the Downloaded copy of G.S.T Registration. It transpires that the deceased running a proprietorship concern. He was carrying on the fumigation related work. Ex.P.16 reflects the aforesaid details.

5.From the close perusal of Ex.P.9, it is the statement of account issued by IDBI Bank Ltd., Thoothukudi, which relates to J.N.F services. From going through the statement of account, what is the income the deceased was getting per month could not be gathered. Therefore, Ex.P.9 and Ex.P.13 is the savings Bank Pass Book of the deceased till April 2017. Ex.P.12 is the sale deed in the name of the deceased's wife dated 21.04.2017. A plot has been purchased in the name of the first claimant, who is the wife of the deceased. Though so many documents have been marked viz., Ex.P.12 to Ex.P.17, the income that was earned by the deceased could not be gathered. This Court deems it fit to fix his monthly income at Rs.20,000/-.



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6.As per postmortem certificate of the deceased, the age of the deceased is fixed as 40 years. As per the law laid down by the Hon'ble Supreme Court in ***Sarala Varma and others Vs Delhi Transport Corporation and another***, reported in ***2009(2) TNMAC 1***, the proper multiplier to be adopted is '15m'. As per the law laid down by the Hon'ble Supreme Court in ***National Insurance Company Vs Pranay Sethi and others***, reported in ***2013(1)TNMAC 481 SC***, as regards the future prospects, the persons whose age is between 40 and 50 years, 25% is to be added, while computing the monthly income. For deduction of personal and living expenses 1/3 will be deducted. For computing loss of dependency, based on the aforesaid details, the following formula emerges:
$$\text{Rs.20,000/-} + 20\% - 1/3 \times 15 \times 12 = \text{Rs.28,80,000/-}$$

7.For loss of consortium, a sum of Rs.30,000/- is granted in addition to the amount granted by the Tribunal. As regards the other heads, the amounts awarded by the Tribunal appears to be reasonable and acceptable, needs no interference. The compensation awarded by the Tribunal is reworked and tabulated hereunder:



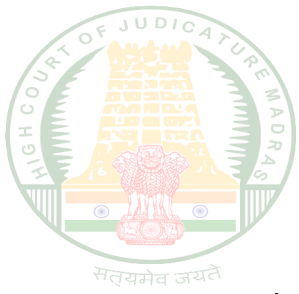
S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of Dependency	Rs.22,50,000/-	Rs.28,80,000/-	Enhanced
2	For Loss of Consortium	Rs.50,000/-	Rs.80,000/- (50,000 + 30,000)	Enhanced
3	For Loss of estate, love and affection	Rs.25,000/-	Rs.25,000/-	Confirmed
4	For Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
5	For Medical Bills	Rs.17,300/-	Rs.17,300/-	Confirmed
	Total	Rs.23,57,300/-	Rs.30,17,300/-	Enhanced by Rs.6,60,000/-

8. In the result,

(i) The Civil Miscellaneous Appeal stands allowed.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.23,57,300/- to Rs.30,17,300/-.

(iii) The Insurance Company/second respondent is directed to deposit the enhanced compensation amount i.e., Rs.30,17,300/- (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.1313 of 2018 on the file of Motor Accidents Claims Tribunal /IV Additional District Judge, Tirunelveli, within a period of eight (8)



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weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the first claimant/appellant is permitted to withdraw the award amount along with interest and costs as apportioned by the Tribunal, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. As the second appellant/claimant is a minor, the Tribunal shall deposit the share of the minor claimant in a Fixed Deposit in any one of the Nationalized Banks, till the minor claimant attains majority. The guardian of the minor claimant is permitted to withdraw the interest accrued thereon once in three months directly from the bank.

(v) The claimants/appellants are directed to pay the Court fee for the enhanced compensation amount, if required. Out of the compensation amount, a sum of Rs.66,000/- shall be deducted towards income tax.

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

(vii) No costs.

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To

1.The Motor Accident Claims Tribunal/
IV Additional District Judge,
Tirunelveli.



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R. KALAIMATHI,J.

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