



C.M.A.(MD) No.1182 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.1182 of 2016

1.Velammal
2.Minor Uykattan
represented by her mother and natural guardian/
1st appellant. ... Appellants/Petitioners

vs.

1.Gunasekaran

2.National Insurance Company Limited,
Through its Branch Manager,
No.37-C, S.N.High School,
Tirunelveli.

3.Krishnammal. ... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1983, against judgment and decree dated 25.03.2013 passed in M.C.O.P.No.745 of 2010 on the file of the Motor Accidents Claims Tribunal, III Additional District Court, Tirunelveli.



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For appellant : Mr.T.Selvakumaran

For Respondents

For R1 & R3 : No appearance

For R2 : Mr.A.Balaji
for Mr.D.Sivaraman

J U D G M E N T

Not being satisfied with the Award dated 25.03.2013 passed in M.C.O.P.No.745 of 2010 by the Motor Accidents Claims Tribunal/III Additional District Court, Tirunelveli, the legal heirs of the deceased Eswaran have preferred this Appeal for enhancement of compensation.

2. Heard the learned counsel for the appellant and the second respondent/Insurance Company.

3. The only grievance of the learned counsel for the appellant is about the fixation of notional income of the deceased.

4.Date of accident is 04.05.2010. It has come on record from the evidence of P.W.1/wife of the deceased that the deceased was mason by profession and was earning a sum of Rs.10,000/- p.m.



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The abovesaid detail was not substantiated by any document. In consideration of the abovesaid facts and the fact that the deceased was aged about 25 years at the relevant point of time, his income is safely fixed at Rs.6,500/- p.m.

5. As per Ex.P3/Post Mortem Certificate, the age of the deceased is fixed at 25 years at the relevant point of time. As held by the Hon'ble Supreme Court in ***National Insurance Company Limited vs. Pranay Sethi and others*** reported in (2017) 2 ***TNMAC 609 (SC)***, for the persons below 40 years of age, 40% has to be added for future prospects while computing the monthly income. The Hon'ble Supreme Court has standardised the details of deduction, for personal and living expenses. As the claimants are three in number (Appellants 1 and 2 and third respondent), 1/3 has to be deducted from the monthly income for personal and living expenses and the relevant multiplier to be adopted is 18 'M'. For computing the loss of dependency, the following formula emerges:

$$\text{Rs.6,500/-} + \text{Rs.2,600/- (40\%)} - \frac{1}{3} \times 12 \times 18 = \text{Rs.13,10,472/-}$$

6. For loss of consortium, an amount of Rs.80,000/- is



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granted in addition to the amount already awarded by the Tribunal.

For loss of estate, an amount of Rs.15,000/- is granted. As regards other heads, the amounts awarded by the Tribunal appears to be reasonable and acceptable and hence, it needs no interference. The compensation granted by the Tribunal is re-worked and tabulated as given 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.6,15,000/-	Rs.13,10,472/-	Enhanced
2	For funeral expenses	Rs. 10,000/-	Rs. 10,000/-	Confirmed
3	For loss of love and affection and consortium	Rs. 40,000/-	Rs. 1,20,000/-	Enhanced
4	For loss of estate	---	Rs. 15,000/-	Granted
	Total	Rs.6,65,000/-	Rs.14,55,472/-	
			Rounded off Rs.14,55,500/-	Enhanced by Rs.7,90,500/-

7. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.6,65,000/- to Rs.14,55,500/-.



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(iii) The second respondent/Insurance Company is directed to deposit the enhanced compensation amount of Rs.14,55,500/- (less the amount already deposited if any) with interest at 7.5% p.a. from the date of filing of the claim petition till the date of realisation to the credit of M.C.O.P.No.745 of 2010 on the file of Motor Accidents Claims Tribunal, III Additional District Court, Tirunelveli, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimants/first appellant and the third respondent are permitted to withdraw their share amount as per the apportionment made by the Tribunal with interest, after adjusting the amount, if any already withdrawn by filing necessary application before the Tribunal.

(v) The Tribunal is directed to deposit the share amount of the minor claimant/second appellant in any one of the Nationalized Bank in an interest bearing Fixed Deposit, initially for a period of three years, renewable thereafter, till the minor attains majority. The guardian of the minors/first appellant, who is his mother, is



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permitted to withdraw interest from the said deposit, once in three months and utilise the same for the welfare of the minor claimant/second appellant.

(vi) The claimants are directed to pay the Court fee for the enhanced compensation amount, if required.

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

30.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
apd

To

1.The Additional District Judge,
The Motor Accidents Claims Tribunal,
III Additional District Court,
Tirunelveli.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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R.KALAIMATHI,J

apd

Pre-delivery order made in
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