



C.M.A.(MD)No.75 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2025

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.75 of 2023

Jansi Rani

... Appellant

vs.

1. B.Balagenghatharan

2. The New India Assurance Company Ltd.,
Through its Branch Manager,
No.34, Alagar Koil Road,
Thallakulam, Madurai – 625 002.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 73 of Motor Vehicles act, to enhance the award amount granted in M.C.O.P.No.315 of 2019 on the file of the Motor Accident Claims Tribunal/III Additional District Court, Tirunelveli, dated 24.06.2022.

For appellant : Mr.T.Selvakumaran

For R-1 : No appearance

For R-2 : Mr.C.Karthik



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J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the Award dated 24.06.2022 passed in M.C.O.P.No.315 of 2019, on the file of the Motor Accidents Claim Tribunal / III Additional District Court, Nagercoil, for enhancement of compensation.

2. Heard the arguments of learned counsels on either sides and perused the relevant records.

3. The claimant herein filed a claim petition under Section 166 of Motor Vehicles Act, 1988, claiming compensation of Rs.35,00,000/- for the death of her husband, namely Rajinikanth, on account of of motor vehicle accident that occurred on 07.02.2019.

4. Upon consideration, the Tribunal has granted a sum of Rs. 12,25,700/- and the details of compensation granted by the Tribunal is given hereunder:

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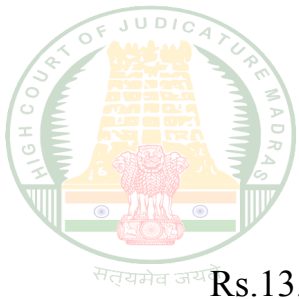
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S.No.	Description	Amount
1	For Loss of Dependency	Rs.11,90,700/-
2	For Loss of Estate	Rs.10000/-
3	For Funeral Expenses	Rs.15,000/-
4	For Transportation charges	Rs.10,000/-
	Total	Rs.12,25,700/-

5. The main grievance of the appellant is that for personal and living expenses of the deceased, 1/3rd has to be deducted and the Tribunal has deducted 50% is incorrect, as the deceased is a married person.

6. As per the law laid down by the Hon'ble Supreme Court in the case of *Saralavarma and Others vs. Delhi Corporation and others* reported in **2009 (2) TNMAC 1(SC)**, the details of deduction for personal and living expenses have been standardized by the Apex Court. If the deceased is married and if the dependant family members are 2 to 3, then 1/3rd has to be deducted.

7. Therefore, the loss of dependency is computed as mentioned herein



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Rs.13,230 - $\frac{1}{3} \times 12 \times 15$ = Rs.15,87,600/-, For loss of estate, an amount of Rs.

5,000/- is granted in addition to the amount already granted by the Tribunal.

For loss of consortium, as appellant/claimant being wife of the deceased, an

amount of Rs.40,000/- is granted. The compensation awarded by the Tribunal

is re-worked and tabulated as 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 (13,230 - $\frac{1}{3} \times 12 \times 15$ = 7,93,800)	Rs. 11,90,700/-	Rs. 15,87,600/-	Enhanced
2	Loss of Estate	Rs.10000/-	Rs.15,000/-	Enhanced
3	Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
4	Transportation charges	Rs.10,000/-	Rs.10,000/-	Confirmed
5	Loss of Consortium	-	Rs.40,000/-	Granted
	Total	Rs. 12,25,700/-	Rs. 16,67,600/-	Enhanced by Rs. 4,41,900/-

8. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from Rs.

12,25,700/- to Rs.16,67,600/-.



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(iii) The second respondent/Insurance Company is directed to deposit the compensation amount i.e., Rs.16,67,600/- (less the amount already deposited if any) to the credit of M.C.O.P.No.315 of 2019 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 claimant/appellant is permitted to withdraw the award amount, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(v) The claimant/appellant is directed to pay the Court fee for the enhanced compensation amount, if required.

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

31.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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R.KALAIMATHI,J

jbr

To

1. The III Additional District Court, Tirunelveli.
2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

Pre-delivery order made in
C.M.A.(MD) No.75 of 2023

31.01.2025