



C.M.A.(MD)No.1340 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11.03.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.1340 of 2024

Parimala (Died)

Suresh

Chellammal (Died)

... Appellant

Vs.

1.P.Soorath Peyari

2.The Branch Manager, Royal Sundaram Alliance & Insurance
Company Limited, Door No.2/319, Visranthi Melagaram Towers,
Rajiv Gandhi Salai, (OMR), Karapakkam, Chennai – 600 097.

3.P.Justin ... Respondents
(The respondents 1 & 3 are set exparte before the trial Court.
Notice may be dispensed with.)

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree passed in M.C.O.P.No.69 of 2016, dated 28.06.2024, on the file of the Motor Accident Claims Tribunal cum Sub Court, Valliyoor.

For Appellant	: Mr.S.Muthumalai Raja
For R2	: Mr.S.Srinivasa Raghavan
For R1 & R3	: Exparte



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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/claimant, challenging the award passed by the learned Motor Accident Claims Tribunal (Sub Judge), at Valliyoor, in M.C.O.P.No.69 of 2016, dated 28.06.2024.

2.For the sake of convenience, the parties are arrayed herein as per the ranking in M.C.O.P.No.69 of 2016.

3.The factual matrix of the present case, briefly stated, are as under:-

The legal heirs of the deceased person were the petitioners therein and among which, the petitioners 1 and 3 have passed away during the pendency of the M.C.O.P. The first respondent is the owner of the vehicle. The second respondent is the insurance company. On 20.06.2015, at about 09.45 a.m., the deceased Shanmugavel while riding his two wheeler bearing registration No.TN-72-AY-1434, travelling in Tirunelveli – Kanyakumari District four way road from north to south, near south of Pallavoor Ganapathipuram Junction, a four wheeler car bearing registration No.TS-10-EC-3947 dashed the deceased from behind in a rash and negligent manner. As the result of which, the



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deceased was jammed between the car and tipper lorry, which is travelling ahead. As the result of which, he passed away on the spot due to injuries sustained in the back side of his skull. Seeking compensation for the same, the legal heirs of the deceased have laid the M.C.O.P.No.69 of 2016.

4.Two witnesses were examined and 16 documents were marked on the side of the claimant/appellant. No witness was examined and no document was marked on the side of the respondents. The learned Tribunal allowed the claim petition, directing the second respondent to pay a sum of Rs.2,31,875/- as compensation to the claimant. Challenging the same, this Civil Miscellaneous Appeal is filed, seeking enhancement of award amount.

5.The learned counsel appearing for the appellant submitted that at the time of filing M.C.O.P., the claimant has pleaded that the deceased person was a retired person. However, without noticing the fact that he availed VRS from service and that he is only 57 years old, the learned Tribunal proceeded to fix the age of the deceased as 60 years, instead of 57 years and he has filed voluntary retirement particulars of the deceased before this Court. The learned Tribunal ought to have taken the multiplier '9', since the age of the deceased is 57 years at the time of accident. But since the said document is not marked



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before the learned Tribunal, the learned Tribunal cannot be faulted with for having fixed the age of the deceased on the basis of the available documents.

6. Heard the learned counsel for the appellant, the learned counsel for the 2nd respondent and carefully perused the materials available on record.

7. A careful perusal of the materials available on record would reveal that based on the last drawn pension by the deceased, the learned Tribunal has fixed the income of the deceased as Rs.22,125/-, which is reasonable. The learned Tribunal has fixed the age of the deceased as 60 years. Though the appellant has filed letter regarding voluntary retirement, pension payment order book and office records of the deceased before this Court, the appellant should have taken diligent steps to mark the same before the learned Tribunal. Having failed to do so, I am not inclined to interfere with the age arrived by the learned Tribunal.

8. In view of the same, I find it necessary that following the principles of the Hon'ble Apex Court in the case of *Sarala Verma and others v. Delhi Transport Corporation and others* reported in *AIR 2009 (SCC) 3104*, 1/3rd of the income of the deceased has to be deducted for personal expenses of the



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deceased. Therefore, the contribution towards family as monthly income is Rs.

14,750/- (Rs.22,125 - 7,375). As per **Sarala Verma** case, multiplier '7' is to be adopted. Thereby, the loss of dependency would be calculated as Rs. 12,39,000/- (Rs.14,750x12x7).

9.The learned Tribunal proceeded to pass an award of compensation of Rs.40,000/- for loss of love and affection, which is reasonable. A sum of Rs. 10,000/- has been awarded under the head of transportation, which is also reasonable. That apart, the compensation towards funeral expenses is to be enhanced from Rs.10,000/- to Rs.15,000/- and no compensation was awarded under the Head loss of estate and a sum of Rs.15,000/- is awarded towards loss of estate. Thereby, the total compensation is enhanced from Rs.2,31,875/- to Rs.13,19,000/-. In view of the above, the Civil Miscellaneous Appeal is allowed.



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Head	Compensation awarded before learned Tribunal	Compensation awarded before this Court	Reduced/Enhanced/ Confirmed
(i) Loss of Dependency:	Rs.1,71,875/-	Rs.12,39,000/-	Enhanced
(ii) Loss of love and affection for the petitioners:	Rs.40,000/-	Rs.40,000/-	Confirmed
(iii) Transportation Expenses:	Rs.10,000/-	Rs.10,000/-	Confirmed
(iv) Funeral Expenses:	Rs.10,000/-	Rs.15,000/-	Enhanced
(v) Loss of Estate:	-	Rs.15,000/-	Enhanced
Total compensation awarded:	Rs.2,31,875/-	Rs.13,19,000/-	Enhanced

10.The appellant/claimant is entitled to a sum of Rs.13,19,000/- with interest at the rate of 7.5% from the date of the claim petition till the date of realization. The second respondent is directed to deposit the aforesaid amount with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. On such deposit, the appellant is permitted to withdraw the award amount, after deducting any amount received by him earlier. The appellant/claimant is not entitled for interest for the default period, if there is any. The appellant is directed to pay



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the additional Court fee on enhanced compensation, if any. There shall be no order as to costs.

11.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

To

- 1.The Motor Accidents Claims Tribunal,
(Sub Judge), Valliyoor, Tirunelveli District.
- 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Mrn

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