



CMA(MD)No.324 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :09.10.2025

CORAM:

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

**CMA(MD)No.324 of 2021
and
CMP(MD)No.2764 of 2021**

The Branch Manager,
ICICI Lombard General Insurer Company,
First Floor, Layola Technical Institute No.7,
Arignar Anna Road, Gnanavolipuram,
Madurai-16

... Appellant

vs.

Mariammal(Died)

1. Francis

2. Martin

3. Christin

4. Tensi

5. Paulraj

6. Jesu Nayagan

7. Varkeesh

8. G.Sahaya Stalin

9. Shylaja

10. M.Venkash(Minor)

(Rep by his mother the natural guardian)

...Respondents

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 12.07.2018 in MCOP No.89 of 2013 on the file of the Motor Accident Claims Tribunal cum Judicial Magistrate, Nagercoil and allow the above civil miscellaneous appeal.



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For Appellant : Mr.V.Muthukamatchi
For R1 to R7 : Mr.George Paul Antony
For R8 : Mr.N.Pragalathan
For R9 : No appearance

JUDGMENT

[Judgment of the Court was made by P. VELMURUGAN, J.]

This Civil Miscellaneous Appeal is filed against the order and decree dated 12.07.2018 in MCOP No.89 of 2013 on the file of the Motor Accident Claims Tribunal cum Judicial Magistrate, Nagercoil

2. The appellant is the insurance company. Originally, the mother of the deceased filed a claim petition for accidental death. The accident took place on 22.02.2010, whereas the claimant/mother of the deceased filed a claim petition on 10.12.2012, and thereafter, the original claimant/mother of the deceased died on 16.09.2015. Thereafter, the daughters and sons of the deceased claimant or in other words the brothers and sisters of the deceased, filed a petition for impleading themselves to prosecute the claim application, and that application was allowed by the tribunal. After full-fledged enquiry, the Tribunal awarded a sum of Rs.24,22,000/- as compensation. Aggrieved over the same, the Insurance Company has filed the present Civil Miscellaneous Appeal, mainly disputing the dependency of the existing claimants on the deceased brother.



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3. The learned counsel appearing for the appellant would submit that the respondents 1 to 7 are not the claimants and they are not the original dependants of the deceased who met with an accident, and therefore, they are not entitled to any compensation and the Tribunal ought to have dismissed the claim petition soon after the death of the original claimant. However, the respondents were impleaded as legal heirs of the deceased/claimant. Even otherwise, the Tribunal ought to have awarded compensation only till the death of the original claimant. Further, the Tribunal also erroneously adopted the multiplier method and awarded a compensation of Rs.24,22,000/-. Therefore, the award passed by the Tribunal is liable to be set aside, and the appeal is liable to be allowed.

4. The learned counsel appearing for the respondents would submit that though the claimant died leaving behind the legal heirs, the original claimant was none other than the mother. The mother of the deceased filed the claim application; subsequently, the claimant died, whereas the claim application was prosecuted by the dependants and they are entitled to the claim amount as they represent the estate of the original claimant. Therefore, the respondents, as legal heirs of the original claimant, are entitled to compensation. The Tribunal rightly awarded compensation, and therefore, the Civil Miscellaneous Appeal is liable to be dismissed.



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5. Heard both sides and perused the materials available on record.

6. The accident is not disputed. The manner of the accident is also not disputed. The liability is also not disputed. The original claimant filed the claim petition, who was the mother of the deceased, and thereafter, the mother also died. The only dispute is whether the respondents are entitled to get the compensation or not, since the respondents are not the dependants of the deceased who met with the accident. On the date of filing of the claim petition, the original claimant, the mother, was the dependant of the deceased who met with an accident and also the Class I legal heir. She filed the claim petition in the year 2012, and due to one reason or another, the claim petition could not be disposed of when the original claimant was alive. Pending the claim petition, in the year 2015 the original claimant died, and thereafter, the respondents themselves were impleaded as respondents in the claim petition.

7. The main contention raised by the learned counsel appearing for the appellant is that since the respondents are not the dependants of the deceased who met with an accident, they are not entitled to any compensation. It is not the case of the respondents that they themselves filed a claim petition claiming to be the dependants of the deceased who met with an accident, whereas in this case, the original claimant, the mother, only filed the claim petition. It is not in dispute that the



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mother had independent income, and she was the dependant of the deceased who met with an accident. Therefore, since the original claimant was the only dependant, the claim petition was maintainable. Pending the claim petition, after three years, the claimant died; therefore, the respondents themselves were impleaded as legal heirs of the deceased claimant. Thereafter, since the claimant died, the respondents are entitled to the claim amount. However, the income of the deceased is also not in dispute. Further, the Tribunal, while adopting the multiplier method in the case of *Sarla Verma and Others vs. Delhi Transport Corporation and Another*, reported in (2009) 6 SCC 121, instead of deducting 1/2 towards personal expenses, has deducted 1/3 towards personal expenses, and only 40% has to be awarded towards future prospects, but the Tribunal has awarded 50% towards future prospects. At the time of filing the claim petition, the dependant alone filed the claim petition. Now the claim of the claimant has become an estate of the claimant. Therefore, the contention raised by the learned counsel appearing for the appellant is not acceptable.

8. Therefore, it is seen that since the original claimant died, and the respondents are the legal heirs, they are entitled to the estate of the deceased/original claimant.

9. The break up details of the modified award is as follows:



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S.No	Particulars	Award of the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
1	Loss of Income	23,04,000/-	16,12,800/-
2	Medical Expenses	85,685/-	85,685/-
3	Loss of Estate	15,000/-	15,000/-
4	Funeral Expenses	15,000/-	15,000/-
	Total	24,22,685/-	16,68,485/-

10. With the above modification, the Civil Miscellaneous Appeal is partly allowed. The total compensation is reduced to Rs.16,68,485/-. The appellant is directed to deposit the modified compensation of Rs. 16,68,485/- with 7.5% interest per annum from the date of petition till the date of deposit, less the amount already deposited if any to the credit of the claim petition within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents/claimants are permitted to withdraw their respective shares in the ratio apportioned by the Tribunal by making appropriate application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

[P.V., J.] [L.V.G., J.]
09.10.2025

Index : Yes / No
Neutral Citation : Yes / No
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To:
The Motor Accident Claims Tribunal
cum Judicial Magistrate, Nagercoil



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and
L.VICTORIA GOWRI,J.

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JUDGMENT MADE IN
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