



C.M.A(MD)No.84 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.84 of 2023

1.Moorthi
2.Balasubramaniyan

... Appellants/Petitioners

-Vs-

1.Vignesh
2.The Divisional Manager,
The New India Assurance Company (P) Ltd.,
Divisional Office,
Jeroom Building, 1st Floor,
Fort Station Road,
Trichirapalli.

...Respondents/
Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1998, as against the award dated 04.11.2015 passed in MCOP No.5133 of 2013 by the learned Special District Judge, (Tribunal) Trichirapalli.



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For Appellant : Mr.T.Vadivelan
For R2 : Mr.S.Sarvagam Prabhu

J U D G M E N T

Being not satisfied by the award dated 04.11.2015 passed in MCOP No.5133 of 2013 by the Motor Accident Claims Tribunal/Special District Judge, Trichirappalli, two sons of the deceased Muthammal, who died in a road traffic accident, have preferred this appeal.

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

3.Upon consideration, the Tribunal fixed the notional income of the deceased at Rs.3,000/- and by deducting 1/3rd for personal and living expenses and by adding multiplier “5” arrived at loss of income at Rs. 1,20,000/-. For loss of love and affection, an amount of Rs.20,000/- was granted and for funeral expenses and transport expenses, an amount of Rs.20,000/- was granted and in all a sum of Rs.1,60,000/- was granted. For contributory negligence of the deceased, 10% was deducted and the



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amount of Rs.1,44,000/- was awarded as compensation.

4.The only grievance put-forth by the learned counsel for the appellants is that the income of the deceased was fixed at Rs.3,000/-, which is very less.

5.It has come on record through the evidence of P.W.1 that the deceased was working as a coolie in the construction works and earning a sum of Rs.6,000/- per month. Based on the post-mortem certificate-Ex.P1, the age of the deceased was fixed at 70 years. While fixing the notional income, the Tribunal has observed that due to old age chances of going for construction work is less and fixed the monthly income at Rs.3000/- cannot be found fault with. For loss of love and affection, an amount of Rs.16,000/- was granted. For loss of consortium, no amount was awarded by the Tribunal and hence, this Court grants an amount of Rs.60,000/- towards loss of consortium. As regards the other heads, the amounts granted by the Tribunal appears to be reasonable and acceptable and it needs no interference. The compensation awarded by the Tribunal is reworked and



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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 Income	Rs.1,20,000/-	Rs.1,20,000/-	Confirmed
2	For Loss of Pain and Sufferings	Rs.20,000/-	Rs.20,000/-	Confirmed
3	For Loss of funeral expenses and for transportation charges	Rs.20,000/-	Rs.20,000/-	Confirmed
4	For Loss of Consortium	Nil	Rs.60,000/-	Granted
	Total	Rs.1,44,000/-	Rs.2,20,000/-	

6. In the result,

(i) The Civil Miscellaneous Appeal stands partly allowed.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.1,44,000/- to Rs.2,20,000/-.

(iii) The Insurance Company/second respondent is directed to deposit the enhanced compensation amount i.e., Rs.2,20,000/- (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.5133 of 2013 on the file of the Special District Court,



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(Tribunal), Trichirappalli, 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/appellants are 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.

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

(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.

31.01.2025

NCC:Yes/No

Index:Yes/No

Internet::Yes/No

To

1.The Special District Judge, (Tribunal)

Trichirappalli.



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R. KALAIMATHI,J.

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