

C.M.A.(MD) No. 695 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.01.2025

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

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1.Kala
2.Sahaya Ugin
3.Sahaya Vinish
4.Minor. Sahaya Ugin
[4th appellant is represented by her mother
and natural guardian 1st appellant]

... Appellants

VS.

1.Rajan
2.The New India Assurance Company Limited,
Through its Divisional Manager,
Pillars Gate, Opposite to Anna Stadium,
Nagercoil.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the award made in M.C.O.P. No. 561 of 2019 on the file of the Motor Accident Claims Tribunal, Special Sub Judge, Tirunelveli, dated 12.04.2022.

For Appellants : Mr. T. Selvakumaran
1st Respondent : No Appearance
For 2nd Respondent : Mr. B. Rajesh Saravanan



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JUDGMENT

Being not satisfied with the award dated 12.04.2022 passed in M.C.O.P. No. 561 of 2019 by the Motor Accident Claims Tribunal, Special Sub Judge, Tirunelveli, the legal heirs of the deceased Sahaya Rixon have preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2. The claim petition was filed by the legal heirs of Sahaya Rixon, claiming compensation of Rs.40,00,000/- for the death of Sahaya Rixon, who died in a motor vehicle accident that occurred on 20.07.2018.

3. Upon consideration, the Tribunal fixed the salary of the deceased at Rs.9,000/-, after adding 40% for future prospects, arrived notional income at Rs.12,600/- per month. As the deceased was a bachelor, after deduction of 50% for personal and living expenses and by adopting multiplier 18, the loss of dependency was arrived at Rs.13,60,800/- (6,300x12x18m).

4. The grievances of the learned counsel for the appellant are:-

i) fixation of notional income is less.

ii) as the family members of the deceased is more in number,



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instead of $\frac{1}{2}$ for personal and living expenses, $\frac{1}{3}^{\text{rd}}$ should have been deducted.

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5. It has come on record through the evidence of P.W.1, Kala (mother of the deceased) that the deceased was working as a Deep Sea Fisherman and Fish Merchant and earning a sum of Rs.20,000/- per month. The date of accident is 20.07.2018. The age of the deceased at the relevant point of time is 21 years and he is stated to be a Deep Sea Fisherman and Fish Merchant. The said details is not substantiated by any document.

6. In consideration of the above said details, his notional income is safely fixed at Rs.11,000/- per month. As per the law laid down by the Hon'ble Supreme Court in ***National Insurance Co. Ltd., v. Pranay Sethi and others*** reported in ***2017 (2) TN MAC 609 (SC)***, 40% has to be added for future prospects while determining the notional income. As held in ***Smt.Sarla Verma & Ors., v. Delhi Transport Corporation & Another*** reported in ***2009 (2) TN MAC 1 (SC)***, if the deceased was a bachelor and his family is large and dependent on the deceased, then $\frac{1}{3}^{\text{rd}}$ has to be deducted for personal and living expenses. Claimants are four in number. The age of the deceased was 21 years and the relevant multiplier to be



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adopted is 18m.

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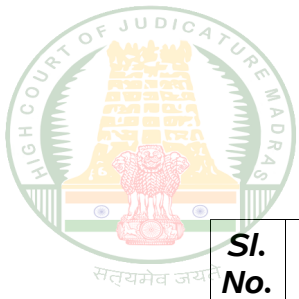
7. Based on the aforesaid details, loss of dependency is computed as given hereunder: -

$$\text{Rs.11,000/-} + 40\% - \frac{1}{3} \times 12 \times 18\text{m} = \text{Rs.22,17,672/-}$$

8. That apart, an amount of Rs.44,000/- has been granted for Filial Consortium to the parents. The claimants are parents and siblings, totally 4 in numbers. Therefore, for loss of consortium, an amount of Rs. 1,60,000/- is granted in addition to the amount already awarded by the Tribunal.

9. As regards the other heads, it appears that the amounts awarded by the Tribunal appears to be reasonable and acceptable and hence, it needs no interference. The compensation awarded by the Tribunal is reworked and tabulated, as given hereunder: -

Sl. 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.13,60,800/-	Rs.22,17,672/-	Enhanced



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Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
2	For loss of Consortium	Rs. 44,000/-	Rs. 1,60,000/- (consortium to the parents and siblings)	Enhanced
3	For Loss of estate	Rs. 16,500/-	Rs. 16,500/-	Confirmed
4	For Funeral expenses	Rs. 16,500/-	Rs. 16,500/-	Confirmed
	Total	Rs.14,37,800/-	Rs.24,10,672/-	
	Rounded off to		Rs.24,10,700/-	

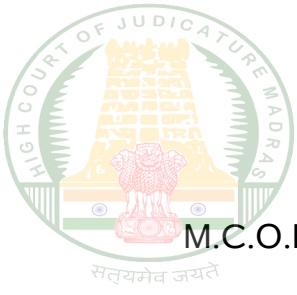
10. Thus, the compensation awarded by the Tribunal is enhanced from **Rs.14,37,800/-** to **Rs.24,10,700/-** which would carry interest at the rate of 7.5% per annum.

11. In the result,

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

(ii) The compensation awarded by the Tribunal is enhanced from **Rs. 14,37,800/-** to **Rs.24,10,700/-**.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., **Rs.24,10,700/-** (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



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M.C.O.P.No.561 of 2019, on the file of the Motor Accident Claims Tribunal Authority, (Special Sub Judge), Tirunelveli, within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellants / claimants are at liberty to withdraw the same as per apportionment made by the Tribunal along with interest and costs, less the amount if any already withdrawn, by making necessary cheque application before the Tribunal. The appellants/claimants are directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court fee by the claimants.

28.01.2025

Index : Yes/No
AT

To:

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



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R.KALAIMATHI, J.

AT

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