



C.M.A(MD)No.102 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 12.08.2025

Pronounced on : 25.09.2025

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

C.M.A.(MD)No.102 of 2011

1.B.Kasirajan

2.K.Sulomani

... Appellants/ Petitioners

Vs.

1.Pandiammal

2.P.Pandian

3.The Divisional Manager,

M/s.United India Insurance Company Ltd.,

No.7, West Veli Street,

Madurai – 625 001.

...Respondents /Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 09.07.2009 made in M.C.O.P.No.430 of 2000 on the file of the Additional District Judge, Fast Track Court No.I, Motor Accident Claims Tribunal, Madurai and allow this Civil Miscellaneous Appeal.



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For Appellant : Mr.R.Narayanan

For Respondents : No appearance – for R2

Mr.I.Suthakaran – for R3

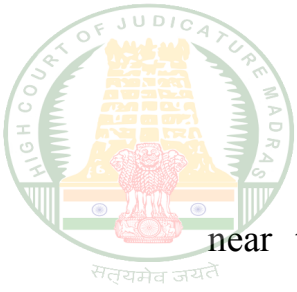
JUDGMENT

(Judgment of this Court was delivered by **R.POORNIMA, J.**)

The appellants/petitioners have filed this Civil Miscellaneous Appeal against the fair order and decretal order dated 09.07.2009 passed in M.C.O.P.No.430 of 2000 by the Additional District Judge, Fast Track Court No.I, Motor Accident Claims Tribunal, Madurai.

2. Brief facts of the petition filed by the claimant before the Tribunal are as follows:

(a) On 12.01.1999 at about 1.15 a.m., the deceased Balamurugan, his friend Ashok Kumar, were returning from the house of their friend in a TVS Scooty bearing Registration No.TN-59-K-5537. The said vehicle was driven by one Ashok Kumar and the deceased Balamurugan was the pillion rider in that vehicle. When they reached

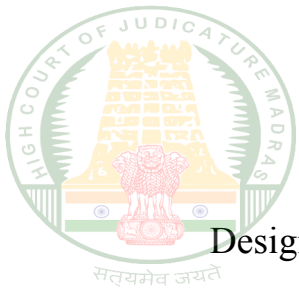


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near the Narayana Electricals, at Tavittuchandai, South Veli Street, Madurai, a Lorry bearing Registration No.TCB 4215 which was coming in the opposite direction of the Scooty, namely, the west side, driven by the second respondent in a rash and negligent manner and high speed, dashed against the TVS Scooty. Due to the said accident, both the deceased Balamurugan and Ashok Kumar were thrown off and they fell on the road. While Ashok Kumar was fortunate enough and escaped narrowly, Balamurugan sustained head and leg injury. He became unconscious, and with the assistance of lorry driver Pandiyan, he was taken to Vadamalayan Hospital, Bibikulam for treatment in an auto rickshaw. He was admitted there and underwent treatment up to 18.01.1999. However, despite the treatment given in the hospital, Balamurugan succumbed to the injury on 18.01.1999 at about 4.40 PM.

(b) The accident happened, solely due to the rash and negligent driving of the lorry driver viz., the second respondent who was driving the lorry at a high and uncontrollable speed. The petitioners have lost their beloved son. The deceased Balamurugan is an intelligent boy, having a bright future. He had obtained a Bachelor Degree in Mechanical Engineering, an IBM Main Frame certificate, Oracle 7.1 Developer 2000



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Designer 2000 and also several experience in Software Development.

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Apart from that he had also undergone training in the courses, Visual Basic 5.0, C++, and VC++. The deceased possessed all such qualifications and scheduled to travel to the United States of America after undergoing final training for one month at Hyderabad. Having acquired such specialised qualifications in Computer Science and Engineering with Visu Consultants Limited, Madurai, a consultancy was agreed to pay him a sum of \$36,000 Dollars to \$45,000 Dollars (U.S) initially and an increment to be granted after three months based on his performance along with a further pay of sum of \$6,000/- dollar (U.S) per month. At the time of the accident, he was about to leave from Madurai to Hyderabad and then to USA. Necessary arrangements had been completed by him.

(c) The petitioners who are the parents of the deceased placed a great expectation upon him. The untimely death of their beloved son came as a profound and irreparable shock at the time of the accident. The deceased was hale and healthy. Due to his premature death, the petitioners not only lost their son, but the future of their daughter also been adversely affected.



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(d) Since the accident happened solely due to the rash and negligent driving of Thiru.Pandian, lorry driver bearing Registration No.TCB 4215, which belonged to the 1st respondent who is the owner, vicariously liable to pay the compensation as the said driver was employed under him at the time of the accident. Further the third respondent being the insurer of the lorry is also liable to indemnify the owner. Hence, all the respondents are jointly and severally liable to pay the compensation of Rs.41,00,000/-. The petitioners are entitled to interim compensation of Rs.50,000/- even without proving the negligence on the part of the driver of the lorry. Hence, both the respondents are jointly and severally liable to pay compensation to the petitioners. They seek Rs.40,00,000/- as compensation.

3. Brief averments contained in the counter filed by the third respondent are as follows :

(a) The respondent denied all the allegations in the petition. The petitioners have to prove that they are the legal heirs of the deceased. The third respondent stated that the driver of the lorry, drove the vehicle carefully after following the traffic rules, but the Scooty bearing



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Registration No.TN-59-K-5537 was driven by Ashok Kumar carelessly and negligently from the opposite direction from East to West in a zig-zag manner and in that process, the accident occurred. The accident occurred due to the negligent driving of the Scooty by its motorist Ashok Kumar. There is no rash and negligent act on the part of the driver of the lorry.

(b) It is for the petitioners to prove that the deceased Balamurugan had already obtained a Bachelor of Degree in Engineering and other Software training and the alleged agreement entered into with Visu Consultant and the payment agreed upon. It is denied that at the time of the accident, the deceased was about to leave Madurai to Hyderabad and then to USA. Hence, the petition is liable to be dismissed.

4. During trial, on the side of the petitioners, P.W.1 to P.W.4 were examined and Exs.P1 to Exs.P19 were marked. On the side of the respondents, R.W.1 was examined and no document was marked.

5. After hearing all the parties, considering the evidence and



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records, the Tribunal allowed the petition and awarded a sum of Rs.8,33,221/- as compensation. The learned Judge directed the 3rd respondent / 3rd respondent - Insurance Company to pay the entire award amount within a period of two months.

6. Aggrieved by the said order, the present Civil Miscellaneous Appeal has been filed by the appellants /claimants (before the lower Court) against the quantum on the following among other grounds :

(i) That the trial Court wrongly interpreted Ex.P6, Ex.P15 and Ex.P16 and questioned the intelligence of the deceased.

(ii) That the trial Court failed to consider Ex.P17 and Ex.P18 and wrongly came to the conclusion that as per Ex.P7 agreement, no receipt was produced for payment and thereby not accepted Ex.P7 receipt.

(iii) That the trial Court failed to consider Ex.P7 and rejected the evidence of PW4.

(iv) That the trial Court wrongly concluded that the appellants failed to prove that the deceased would get a job in America for a salary of \$35,000 to \$40,000 U.S. Dollars.



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(v) That the trial Court wrongly fixed the income for a sum

of Rs.10,000/- per month for an Engineering degree holder who had completed several certificate courses.

(vi) That the trial Court wrongly fixed the multiplier @ 10

instead of 17 multiplier in terms of the provision of the Motor Vehicles Act.

Hence, prayed to set aside the judgment of the trial Court and allow the Civil Miscellaneous Appeal.

7. The 3rd respondent has not filed any Cross Objection challenging the finding on negligence or on the quantum of compensation awarded by the Tribunal. The only contention placed by the 3rd respondent is that the present Civil Miscellaneous Appeal has been filed after an inordinate delay. It is further stated that the appellants are not entitled to get enhancement, as the Tribunal has already fixed the compensation after due appreciation of the evidence produced by the petitioner. Even assuming without admitting that the appellate Court considers the enhancement of the compensation, the third respondent cannot be fastened with the liability to pay interest for the period of delay, since the Civil Miscellaneous Appeal itself has been filed after an



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inordinate delay, attributable solely to the appellants/petitioners.

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8. Heard the learned counsel on either side and perused the material available on the records.

9. Now, this Court has to decide the following points for consideration :

1) Whether the quantum of compensation awarded by the Tribunal is too low ?

10. Point No.1:

There is no dispute that the deceased was an Engineering student. The statement of marks scored by the deceased Balamurugan is marked as Ex.P6, and the graduation certificate issued by Madurai Kamaraj University is marked as Ex.P25. Further Ex.P16 represents the provisional certificate relating to the B.E., degree. The trial Court however, observed that the deceased had secured only an average mark and therefore, it could not be concluded that he was a brilliant student. It is however, evident that he had completed his degree. The mere securing of average marks cannot by itself be treated as the sole criterion to assess



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the intellectual capacity or future potential of a student. It is a well-recognized fact that even many student with average academic performance have proved to be brilliant and highly successful in their lives. We therefore hold that the observation made by the trial Court is not proper.

11. According to the appellants/claimants, M/s.Visu Consultancy had issued an appointment which is marked as Ex.P10, wherein the salary of the deceased was fixed as \$36,000 - \$45,000 U.S.Dollar with a stipulation that it would subsequently be increased upto \$6000 per month.

12. At the time of the accident, he was about to leave Madurai to Hyderabad and then to proceed to the USA. The necessary arrangement has already been completed. It was further contended that if the deceased was alive, he would have earned \$6000 US Dollars and it was converted into Indian currency at the prevailing exchange rate amounts to a sum of Rs.2,40,000/- per month, however, he prayed that the monthly salary of the deceased would be reasonably fixed at Rs.50,000/- for computation.



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13. On perusal of Ex.P7 which is the contract alleged to have been entered into between the deceased Balamurugan with M/s.Visu Consultants Limited, it is seen that the said Consultancy was engaged in rendering placement services in USA, including arrangements involving high Visa expenses etc., However, the said Consultancy was not a company providing direct employment to staff .

14. Furthermore, on perusal of Ex.P10 dated 08.03.1999 which was received only after the demise of the deceased, the contents of the said document revealed that the said Consultancy has arranged a job in USA. The above letter does not disclose any details regarding the name of the company in which they arranged for a job. In the event of a genuine appointment, it is the company that ought to have issued a formal appointment letter to the candidate. However, no such document is forthcoming. Therefore, Ex.P10 cannot be construed as an appointment order so as to establish the existence of a valid and binding agreement regarding the salary proposed to be paid to the deceased.

15. Therefore, the contention of the appellants that the



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deceased was about to leave Madurai to USA to accept the alleged employment is not believable, as Ex.P10 was received only subsequent to the death of the deceased, and no Visa particulars have been furnished by the appellants to establish the alleged proposal of the deceased to leave India for joining employment in U.S.A.

16. However, taking into consideration the educational qualifications as well as the technical qualifications of the deceased, it would be appropriate to fix the monthly income at Rs.15,000/- instead of Rs.10,000/-

17. The appellants prayed to apply the guidelines set out in *Smt.Sarla Verma and Others Vs. Delhi Transport Corporation & Another* reported in (2009) 6 SCC 121 to adopt the multiplier method, and to fix the future income as per the *National Insurance Co. Ltd., Vs. Pranay Sethi* reported in (2017) 16 SCC 680. Though the judgment was pronounced much later than the accident and pronouncement of judgment, the guidelines set out in the above cases are intended for standardization of procedure and to maintain uniformity. Since the Civil Miscellaneous Appeal is still pending before this Court, the



compensation will be determined in accordance with the prevailing legal principles and date of the decision in the appeal, not strictly with the reference to the position of law on the date of accident or award. We therefore modify the compensation as follows :

Monthly income	Rs.15,000/-
Annual income	Rs.15,000 x 12 = Rs.1,80,000
Add - Future prospects	
Rs.1,80,000 x 40%	= Rs.72,000
Rs.1,80,000+ 72,000	= Rs.2,52,000
Deduct - Personal expenses 50%	
Rs.2,52,000 – Rs.1,26,000	= Rs.1,26,000
Loss of Income	Rs.1,26,000 x 17 multiplier
	Rs.21,42,000/-
Medical expenses	Rs.8,221/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-
Loss of love and affection	Rs.80,000/-
Total	Rs.22,60,221/-

18. This Court while allowing the C.M.P.(MD)No.8434 of 2021 filed by the appellants with prayer to condone the delay of 1368 days in filing the petition to restore this Civil Miscellaneous Appeal, which was dismissed for default on 09.10.2017, has passed the following order on 04.04.2025 :

“5.It is well settled law that there cannot be a



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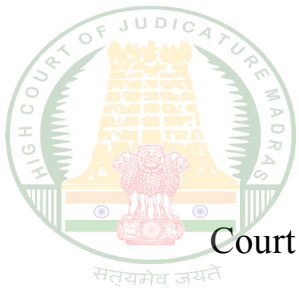
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pedantic approach for accepting the explanation for delay. More so, in a case of Motor accidents Claim, which is a social welfare legislation, the eligible entitlement cannot be deprived, if there is some plausible explanation for the delay. However, the same must be with some cost. In this case, we find that the above C.M.A was dismissed on 9.10.2017 for default has to be restored on file. However, the claimants shall not be entitled for any interest for the period between 9.10.2017 to 04.04.2025, if they succeed in their appeal in respect of their claim for compensation.”

In view of the same, the Appellants are not entitled to interest for the default period, viz., from 09.10.2017 to 04.04.2025. Point No.1 is answered accordingly.

19. In the result, this Civil Miscellaneous Appeal is allowed.

The award passed by the trial Court is modified and the 3rd respondent/3rd respondent Insurance Company is directed to pay a sum of Rs.22,60,221/- to the appellants/claimants along with interest at the rate of 7.5% per annum from the date of the petition till 09.10.2017 and thereafter from 05.04.2025 to till the date of deposit of the amount, less the amount if already deposited to the credit of M.C.O.P.No.430 of 2000 on the file of the Additional District and Sessions Judge, Fast Track



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Court No.1, Madurai, within a period of four weeks from the date of

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receipt of a copy of this judgment. On such deposit, the 1st appellant / 1st claimant is entitled to a sum of Rs.10,60,221/-, the 2nd appellant /2nd claimant is entitled to a sum of Rs.12,00,000/- towards their share and on such deposit, the appellants/claimants are permitted to withdraw the same, less the amount already withdrawn, if any, together with proportionate interest and costs, by filing appropriate petitions before the Tribunal. No costs.

(A.D.J.C., J.) & (R.P., J.)
25.09.2025

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

RM

To

1.The Additional District Judge,
Fast Track Court No.I,
Madurai.

Copy to

1.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.

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A.D.JAGADISH CHANDIRA, J.
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R.POORNIMA, J.

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Judgment in
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