



C.M.A(MD)No.842 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2025

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

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Muthukumar(Died)

1.Ramalakshmi

2.Minor Athirsta

(second appellant is minor, he
was represented through her
mother and natural guardian
first appellant)

3.Govindan

4.Kannammal

... Appellants/Petitioners

-Vs-

1.Kottai

2.The Divisional Manager,
M/s.Oriental Insurance Co., Ltd.,
No.6-A, Mela Veli Veethi,
Madurai Town,
Madurai District.

... Respondents/Respondents



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PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1998, as against the award dated 21.03.2023 passed in MCOP No.25 of 2017 by the Motor Accidents Claims Tribunal, Mudukulatur (Sub Court, Mudukulatur).

For Appellants	: Mr.D.Sethil
For R2	: Mr.C.Karthik
For R1	: Exparte

J U D G M E N T

Not being satisfied by the award dated 21.03.2023 passed in MCOP No.25 of 2017 by the Motor Accidents Claims Tribunal, Mudukulathur /Sub Court, Mudukulathur, the legal heirs of the deceased Muthukumar(Appellant Nos.1 and 2) have preferred this appeal.

2.Upon consideration, the Tribunal granted compensation of Rs.6,50,581/-. For medical expenses-Exs.P.9 and 11, a sum of Rs.5,50,281/-, for attender charges a sum of Rs.30,300/-, for extra nourishment Rs.50,000/ and for transport expenses, a sum of Rs.20,000/- was granted.



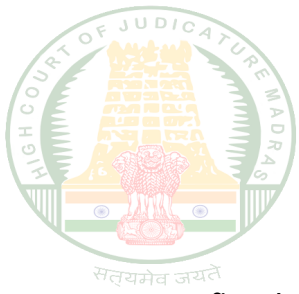
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3.The learned counsel for the appellants would contend that the injured suffered fracture on the right knee, fracture of right little finger and he took treatment till his death. It is his further argument that though no postmortem certificate was filed, because of the injuries sustained only, he died. Therefore, non-granting of amounts for nonpecuniary loss by the Tribunal, is incorrect.

4.On a thorough perusal of the entire records, it appears that the date of accident is 15.06.2015. As per the evidence of P.W.2-Ramalakshmi, W/o.Muthukumar, that her husband, who was the claimant, died on 04.12.2020 during the pendency of the claim petition. The claimant has examined himself on 07.11.2020. He died at his residence on 04.12.2020. His wife was examined as P.W.2 and it is her evidence that her husband died at the residence and no postmortem was conducted on him.

5.The Doctor, who conducted surgery on him, has been examined as P.W.3(Dr.Tharmaraj). It is his evidence that the surgery was performed by him on the right knee of Muthukumar and implantations were

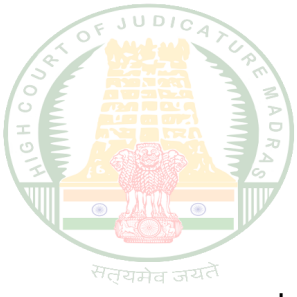


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fixed over the right leg. During his cross-examination, he has stated that he does not know the reason for the death of Muthukumar.

6.As per Ex.P.8, Ex.P.10 and Ex.P.11-Treatment records, the accident took place in the year 2015 and the treatment records for the years 2015 and 2016 were marked, thereafter it appears that the claimant and P.W.2 have stated that further treatment was taken by him and no treatment record is marked. Had the postmortem been conducted on the body of the deceased, what is the reason for the death could have been known. In case of the death of the claimant during pendency of the claim petition, the claimants are bound to prove that due to the accidental injuries, he died. After 2016, no further treatment records have been filed. To prove the fact that till his death, he was under treatment. (ii)No postmortem was conducted in order to ascertain the reason for death. (iii)P.W.3-Doctor, who performed the surgery on the deceased, has also stated that he is not in a position to give any opinion as to the because of his death. The death of the claimant is not duly established, the Tribunal has rightly stated that they are only entitled for the pecuniary loss alone



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granted as mentioned as Rs.6,50,581/-.

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7.This Court finds no good reason to disturb the findings of the Tribunal. Hence, this Civil Miscellaneous Appeal stands dismissed.

8.The Insurance Company/second respondent is directed to deposit the compensation amount (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.25 of 2017 on the file of Motor Accidents Claims Tribunal, Mudukulathur Sub Court, Mudukulathur, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

9.On such deposit being made, the first appellant/claimant is permitted to withdraw her share along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.



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10.As the second respondent/claimant is a minor, the Tribunal shall deposit the share of the minor claimant in a Fixed Deposit in any one of the Nationalized Banks, till the minor claimant attains majority. The guardian of the minor claimant is permitted to withdraw the interest accrued thereon once in three months directly from the bank. No costs.

31.01.2025

NCC:Yes/No

Index:Yes/No

Internet::Yes/No

To

1.The Motor Accidents Claims Tribunal,
Mudukulatur
(Sub Court, Mudukulatur).



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R. KALAIMATHI,J.

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