BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.144 of 2025

and

C.M.P.(MD)No.2255 of 2025

The Manager,
SBI Insurance Company Ltd.,
Grounds & Mezzanine Floors,
Greams Dugar, New No.64,
Old No.149, Greams Road,
Chennai – 600 006. ... Appellant

Vs.

1. A.Solaiyammal

2. A.John Basha ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the order made in M.C.O.P.No.758 of 2022 dated 12.09.2024 on the file of the Motor Accident Claims Tribunal cum Special District Judge, Madurai.

For Appellant	: Mr.N.Shyllappakalyan
For R-1	: Mr.N.Sudhagar Nagaraj
For R-2	: Dispensed with

JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging the order made in M.C.O.P.No.758 of 2022 dated 12.09.2024 on the file of the Motor Accident Claims Tribunal cum Special District Judge, Madurai.

2. For the sake of convenience, the parties herein are referred to, as per their rank before the Tribunal.

3. The petitioner is the mother of the deceased. The first respondent is the owner of the vehicle involved in the accident and the second respondent is the insurance company. On 23.04.2018 at about 02:30 a.m., near Karumariyamman Kovil on Mangalamedu along the Trichy to Chennai main road, a car bearing Registration No.TN-15-R-1306, which was proceeding from Trichy to Chennai Highway road, was driven in a rash and negligent manner and dashed against the deceased, Alaguvalli, who was standing on the extreme left of the Trichy-Chennai Highway near Karumariyamman Kovil, Mangalamedu. As a result, Alaguvalli died on the

spot. The deceaseed, Alaguvalli, was the only daughter of the petitioner and was 48 years age at the time of her death. Seeking compensation for her death, the petitioner mother laid the MCOP. Challenging the quantum of compensation, the second respondent insurance company has filed the present appeal before this Court. The details of the compensation awarded by the learned Tribunal are as follows:

S.No.	**Description**	**Amount**
1.	Loss of income (Rs.118512x15)	Rs.17,77,680/-
2.	Loss of filial consortium	Rs.40,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of estate	Rs,15,000/-
5.	Transport expenses	Rs.5,000/-
6.	Medical bills	Rs.1,98,238/-
	Total	Rs.20,50,918/-

4. The learned Counsel for the Insurance Company submitted that, the Tribunal examined three witnesses on the side of the petitioner as P.W.1 to P.W.3 and documents Ex.P.1 to Ex.P.10 were marked. On the side of the respondents, only one witness was examined as R.W.1 and no documents were marked. On the basis of the arguments put forth by the respective

parties, the evidence deposed and the documents available on record, the Tribunal proceeded to pass an award of Rs.20,50,980/-. He further submitted that the present case is not one of fatal, but rather a case of injury, as the accident occurred on 29.01.2019, whereas the death took place on 03.06.2019. He also pointed the fact that postmortem was not conducted on the deceased. Therefore, the Tribunal ought to have considered the case as one of injury and not as fatal one, for the purpose of determining compensation. He also submitted that, the Tribunal wrongly considered the age of the deceased as 39, whereas the actual age was 48 as per the death certificate marked as Ex.P.4. Consequently, the multiplier ought to have been 13, not 15. Further, since the deceased was above 40 years of age, the applicable future prospect should have been calculated as 25% and not 40% as adopted by the Tribunal. On that basis, the learned Counsel pressed for modification of the award.

5. The learned Counsel for the claimant submitted that, the award passed by the Tribunal is fair and equitable, and therefore need not be interfered. With regard to the contention that the case ought to have been treated as one of injury rather than death, the learned Counsel drew my

attention to the records, which clearly show that the accident occurred on 29.01.2019 and the deceased was discharged on 23.04.2019 from the hospital. The deceased, Alaguvalli, died on 03.06.2019, within 60 days from the date of discharge . Though a postmortem was not conducted since the death had happened within 60 days from the date of discharge, considering the nature of the accident by which the car had dashed against the deceased and thereafter, dashed against the four-wheeler bus, there is no doubt that the cause of death was nothing but the said accident. Therefore, he pressed that there is no demerit in the Tribunal's findings.

6. The learned Tribunal has also while explaining the nexus between the death and the accident, had fairly recorded that the deceased had sustained multiple fatal injuries, more particularly fractured clavicle right leg, contusion chest, Perit talar dislocation right, fracture finula right, fracture SC femur by means of the accident and that the continuous treatment was given to her following which she died on 03/06/2019. It has also been recorded by the Tribunal that though a postmortem could not be done according to evidence of P.W3, Ex.P.2 and Ex.P8 case sheet, is clear which would substantiate the fact that the deceased Alaguvalli died due to

the injuries suffered by her. Hence, I find it fair on the part of the Tribunal to have concluded that the case is one of death and not injury.

7. However, I find a valid point on the argument made by the Counsel for the insurance company. Having marked the death certificate as Ex.P.4, which would clearly mention the age of the deceased as 48, the Tribunal ought not to have fixed the age of the deceased as 39 and proceeded to adopt the multiplier of 15. Hence, the same need to be modified as 48, adopting a multiplier of 13. Accordingly, the head loss of income is modified by taking the notional income as adopted by the Tribunal as Rs.14,108/-. The future prospects are modified from 40% to 25%, amounting to Rs.3,527/- adopting a multiplier of 13 and considering the fact that the deceased is an unmarried woman, 50% of the notional income is deducted towards personal expenditure and the compensation under the head loss of income is as follows.

(41,108 + 3,527 = Rs.17,635/-) /2 x 12 x 13 = Rs.13,75,530/-.

The compensation under the other heads are confirmed. Since the second respondent was set exparte before the learned Tribunal, notice to the second respondent is dispensed with. Considering all the above circumstances, the award passed by the Tribunal is modified as follows:

S. No.	**Description**	**Amount awarded by the Tribunal**	**Amount awarded by this Court**	**Award confirmed or enhanced**
1.	Loss of income (Rs.17,635 x 12 x 13 x 50/100 = Rs.13,75,530/-)	Rs.17,77,680/-	Rs.13,75,530/-	Reduced
2.	Loss of filial consortium	Rs.40,000/-	Rs.40,000/-	Confirmed
3.	Funeral expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
4.	Loss of estate	Rs,15,000/-	Rs,15,000/-	Confirmed
5.	Transport expenses	Rs.5,000/-	Rs.5,000/-	Confirmed
6.	Medical bills	Rs.1,98,238/-	Rs.1,98,238/-	Confirmed
	Total	**Rs.20,50,918/-**	**Rs.16,48,768 /-**	**Reduced by Rs.4,02,150/-**

8. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.20,50,918/- (Rupees Twenty Lakh Fifty Thousand Nine Hundred and Eighteen only) is hereby reduced to Rs.16,48,768/**-** (Rupees Sixteen Lakh Forty Eight Thousand Seven Hundred and Sixty Eight only). The claimant is entitled to get compensation, as per the apportionment made by the Tribunal.

9. The appellant / Insurance Company is directed to deposit the compensation amount with accrued interest and costs to the credit of M.C.O.P.No.758 of 2022 on the file of the Special District Judge / Motor Accidents Claims Tribunal, Madurai, within a period of four weeks (4) from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw the said amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

03.03.2025

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

To

1. The Special District Judge (MACT),
   Madurai.

2. The Section Officer,
   Vernacular Records,
   Madurai Bench of Madras High Court,
   Madurai.

L.VICTORIA GOWRI, J.,

jbr

C.M.A.(MD)No.144 of 2025

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