



C.M.A.(MD) No.151 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.12.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

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1.Indira
2.Ranjeethkumar
3.Chandrakala
4.Sivasankari.

... Appellants/Petitioners

VS.

1.Anthonijashmin

2.The Branch Manager,
Oriental Insurance Company Limited,
Ramanathapuram Branch, KTM Kasim Center,
477/46, 2nd floor, 36, Salai Street,
Ramanathapuram. ...
Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1973, against judgment and decree dated 22.07.2021 passed in M.C.O.P.No.735 of 2019 on the file of the Mahila Court, Pudukottai.

For appellants : Mr.S.K.Mani



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For Respondents

for R1 : No appearance
for R2 : Mr.C.Jawahar Ravindran

JUDGMENT

Not being satisfied with the award passed in M.C.O.P.No.735 of 2019 dated 22.07.2021 by the Motor Accidents Claims Tribunal/Mahila Court, Pudukottai, the legal heirs of the deceased Pasupathi have preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2. Heard the arguments of the learned counsel for the appellants and the second respondent and perused the relevant records.
3. The manner, in which the accident had occurred, is not in dispute.
4. Upon consideration, the Tribunal has passed an award for a sum of Rs.1,50,000/- with interest at 7.5% p.a. For loss of love and affection, Rs.1,25,000/-, for transport expenses, an amount of



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Rs.10,000/- and for funeral expenses, an amount of Rs.15,000/-

was granted by the Tribunal.

5. It was stated by the claimants side that the deceased Pasupathi, who was aged about 60 years, was a pensioner as he was a retired Inspector of Police and was receiving monthly pension of Rs.23,000/-. Besides that, he was working as Supervisor in a private concern and earning a sum of Rs.17,000/- p.m. To prove his income, his wife/P.W.1 Tmt.Indira and his son/P.W.2 Mr.Ranjith kumar were examined. The Tribunal did not grant any amount under the head loss of dependency on the ground that

a. the evidence of P.W.1/wife of the deceased reveals that now, she has been receiving pension of Rs. 23,000/- p.m. and when her husband was alive, the same amount was being received by him as pension.

b. the evidence of P.W.2/Ranjith kumar, who is none other than the son of the deceased to the effect that



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he was running an Advertising services, a partnership firm in the name and style of 'Dharshan Advertising Services'.

Ex.P12 is the attendance register of his firm. Ex.P10 is the salary certificate issued to the deceased by the advertising company, which is being run by P.W.2/son of the deceased. However, in Ex.P10/salary certificate, it is mentioned as compensation of Rs.10,000/-. As P.W.2 did not produce any evidence to show that he is the owner of the advertising company, these details were not accepted by the Tribunal.

6. It is relevant to note that in the claim petition, it has been mentioned that the deceased was working in a private company in the capacity of Supervisor and earning monthly income of Rs. 17,000/- p.m. Based on the testimony of P.W.2 coupled with Exs.P10 and P12, the Tribunal has rejected the said fact. This Court does not find any good reason to disturb the finding of the Tribunal.

7. Though P.W.1/wife of the deceased would state that her husband was receiving monthly pension of Rs.23,000/-, on a



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careful perusal of the colour photo copy of the authorisation for pension issued to P.W.1 (Ex.P9), it appears that he received an amount of Rs.2,84,983/- as commuted value of pension on 08.06.2016 and the reduced pension was Rs.5,675/-. From Ex.P12/authorisation for pension, it is deducible that the deceased was receiving the monthly pension of Rs.5,675/- p.m., The deceased retired from service on 30.04.2016. As per Aadhar card of the deceased/Ex.P8 his date of birth is 21.04.1958. Based on the aforesaid records, at the relevant point of time, his age is safely fixed as 60 years. As per the law laid down by the Hon'ble Supreme Court in ***Sarala Varma -vs- Delhi Transport Corporation and another***, reported in ***2009(2) TNMAC 1 (SC)***, the proper multiplier to be applied is '9'. For deduction of personal and living expenses, if the number of dependants/family members are 4 in number, $\frac{1}{4}$ has to be deducted. For computing loss of dependency, the following formula emerges:

$$\text{Rs.5,675/-} - \frac{1}{4} \times 12 \times 9 = \text{Rs.4,59,648/-}.$$

8. The Tribunal has granted an amount of Rs.1,25,000/- for loss of love and affection. As the claimants are four in number, who



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are the legal heirs of the deceased Pasupathi, for loss of consortium, an amount of Rs.35,000/- is granted in addition to the amount already awarded by the Tribunal. For loss of estate, an amount of Rs.15,000/- is granted. As regards other heads, the compensation granted by the Tribunal appears to be reasonable and acceptable and needs no interference. The compensation awarded by the Tribunal is reworked and 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 love and affection and for loss of consortium	Rs.1,25,000/-	Rs.1,60,000/-	Enhanced
2	For transport expenses	Rs. 10,000/-	Rs. 10,000/-	Confirmed
3	For funeral expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed
4	For loss of dependency	---	Rs.4,59,648/-	Granted
5	For loss of estate	---	Rs. 15,000/-	Granted
	Total	Rs.1,50,000/-	Rs.6,59,648/-	
	Rounded off		Rs.6,60,000/-	

9. In the result,



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(i) The Civil Miscellaneous Appeal stands partly allowed. No WEB C costs.

(ii) The compensation awarded by the Tribunal is enhanced from Rs.1,50,000/- to Rs.6,60,000/-.

(iii) The second respondent/Insurance Company is directed to deposit the enhanced compensation amount i.e., Rs.6,60,000/- (less the amount already deposited if any) along with interest @ 7.5% p.a. from the date of accident till the date of realisation, to the credit of M.C.O.P.No.735 of 2019 on the file of Motor Accidents Claims Tribunal/Mahila Court, Pudukottai, 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 first appellant/wife of the deceased is entitled to Rs.5,10,000/- and the appellants 2 to 4 are entitled to Rs.50,000/- each. The Claimants/appellants are permitted to withdraw their share amount, as per the apportionment fixed, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.



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

(vi) The Tribunal below shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

31.12.2024

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

To

1. The Sessions Judge,
The Motor Accidents Claims Tribunal/Mahila Court,
Pudukottai.

2. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

R.KALAIMATHI.J



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Pre-delivery order made in
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