



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2020

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1996 of 2013

1. V. Murugan
2. M. Kalieswari (Minor)
3. M. Arun Kumar (Minor)
4. M. Venkatesh (Minor)
(Minors are represented by Father &
Next friend the 1st appellant) ...Appellants

Versus

1.N. Raja
2.The United India Insurance Co. Ltd.,
No.1090, Poonamallee High Road,
A.R. Complex, Chennai - 600 084. ...Respondents

Prayer: Civil Miscellaneous Appeal filed against the order and decree dated 12.12.2011 made in M.C.O.P.No.2991 of 2008 on the file of the Motor Accident Claims Tribunal, Additional District cum Sessions Court, Fast Track Court-I, Chennai.

For Appellants : Mr.M. Muthurajan

For Respondent-2 : Mr. D. Bhaskaran
R1 - Ex-parte

J U D G M E N T

The claimants who are the legal heirs of the deceased have preferred the appeal before the Tribunal against the Judgment and order in M.C.O.P.No.2991 of 2008 dated 12.12.2011 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court-I, Chennai, seeking for enhancement of compensation.

2. The facts of the case briefly are as follows:

On 05.07.2008, while the deceased Singaari was walking along Poonamallee High Road, West to East direction at Maduravoyal, near Erikarai (Tank Bund) Bus Stop, the Tractor Lorry bearing Registration No.TAI-2627 driven by its driver in a rash and negligent manner dashed against her, in which the



deceased sustained severe injuries and died on the way to Hospital. Due to the fatal accident, the legal heirs of the deceased, who are husband and children of the deceased, filed a claim petition in M.C.O.P.No.2991 of 2008 seeking for compensation of Rs.12,00,000/- (Rupees Twelve Lakhs only) on the file of the Motor Accident Claims Tribunal, Additional District Judge, Fast Track Court-I, Chennai. The Tribunal after trial, awarded a sum of Rs.4,50,000/- to the claimants/appellants herein as tabulated below:

SL. No.	Particulars	Amount (in Rs.)
1	Loss of dependency (Rs.2500X12X17)	4,08,000.00
2	Loss of consortium	----
3	Loss of Love and affection	32,000.00
4	Funeral Expenses	10000

3. Being aggrieved by the award, the claimants have filed the present appeal seeking for enhancement of the compensation awarded by the tribunal.

4. The learned counsel appearing on behalf of the appellants submits that the Tribunal has awarded a meagre sum of Rs.4,50,000/- (Rupees Four Lakhs and Fifty Thousand Only) without taking into consideration the age, occupation and income of the deceased and loss of dependency. Hence, the claimants are entitled to compensation of Rs.12,00,000/- even though it cannot be assessed by value of money the loss of dependency when the children are minors at the time of the accident.

5. On the other hand, the learned Counsel for the Insurance Company would submit that the appellants are awarded a sum of Rs.4,50,000/- after considering the oral and documentary evidence placed before the Tribunal. Hence, the award of the Tribunal should not be interfered with.

6. Heard both sides and perused the available materials on records.

7. During the trial, P.W.1 to P.W.3 were examined and Ex.P.1 to Ex.P7 were marked on the side of the appellants. None was examined and no documents were marked on the side of the respondents before the Tribunal.

8. The factum of the fatal accident and the manner of the accident being rash and negligence on the part of the driver/1st respondent and entitlement of compensation to the claimants/appellants herein under Section 163A are not in



dispute. The quantum of the compensation awarded by the Tribunal is alone disputed.

9. On perusal of the award, it can be seen that the P.W.3 who was the employer of the deceased, has been examined with regard to the income of the deceased wherein she stated that the deceased had drawn a sum of Rs.350/- per day at the age of 26 years in her occupation.

10. In view of the above, the deceased income can be considered at Rs.6,500/- per month instead of Rs.3,000/- as fixed by the Tribunal less 1/3 towards personal expenses, the loss of dependency would be Rs.4,333/- per month or Rs.51,996/- per year adopting multiplier of 17 as per "Sarla Verma's case", 2009, ACJ 1298 (SC). Thus, the loss of dependency arrives to Rs. 8,83,932/- (Rs.4333 X 12 X 17) rounded to Rs.8,84,000/- and the loss of consortium is not awarded to the deceased husband despite it was merely mentioned without any amount in the award. Since the deceased husband has lost his life partner, this Court is inclined to award the same. Thus, this Court has modified the award amount passed by the Tribunal as per the details given below:

SL. No.	Particulars	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1	Loss of dependency	4,08,000.00	8,84,000.00
2	Loss of consortium	---	25,000.00
3	Loss of Love and affection	32,000.00	40,000.00
4	Funeral Expenses	10000	11,000.00
Total Amount		4,50,000.00	9,60,000.00

11. Thus, the compensation awarded by the Tribunal has been enhanced by Rs.5,10,000/- from Rs.4,50,000/- to Rs.9,60,000/- with interest @ 7.5% per annum from the date of petition till the date of deposit of the compensation amount.

12. The Insurance company is directed to deposit the modified award amount within a period of four weeks less already deposited amount if any, from the date of receipt of copy of this order. On such deposit, the appellants are entitled to withdraw their shares as proportionated hereunder:



1st appellant	- 1,60,000/-
2nd appellant	- 3,00,000/-
3rd & 4th appellants	-2,50,000/- each.

if the appellants 2 to 4 are minors, their shares shall be deposited in any nationalized bank till they attain majority and the father of the minors is entitled to withdraw interest quarterly on the deposit of the minors for the expenses of children and appropriate Court fee shall be paid by the appellants for enhancement of the aforesaid compensation.

13. In the result, the appeal is partly allowed. Accordingly, the impugned award passed by the Tribunal in M.C.O.P.No.2991 of 2008 dated 12.12.2011 is modified to the extent as indicated above. There shall be no order as to costs.

Sd/-
Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

lbm
Copy to:

1.The Motor Accident Claims Tribunal,
Additional District cum Sessions Court,
Fast Track Court-I, Chennai

2.The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.D.Bhaskaran, Advocate Sr.8540

C.M.A.No.1996 of 2013

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srg 02/09/2021