

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.416 of 2012

(Through Video Conferencing)

1. R.Malar Mani
2. R.Renuka (Minor)
3. M.Rajammal
4. Munichamy .. Appellants/Claimants
(Minor Rep by Mother & N.F the 1st Petitioner)

vs.

1. S.Manavalan
(1st Respondent remained ex-parte before the Trial Court)
2. New India Assurance Co. Ltd.,
No.375, Anna Salai, Canara Bank 2nd Floor,
Saidapet, Chennai 600 015. ..Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the common Judgment and Decree dated 25.06.2010 made in MACT.O.P.No.4643 of 2007, on the file of the Chief Judge, Small Causes Court (Motor Accidents Claims Tribunal), Chennai.

For Appellants : Mr.R.Kalai Arasan

For Respondents : Mrs.R.Sreevidhya - R2

J U D G M E N T

The appellants herein were the claimants before the Tribunal and they are aggrieved by the impugned order dated 25.06.2010 passed by the Motor Accidents Claims Tribunal (Court of Small Causes), Chennai in MACT.O.P.No.4643 of 2007.

2. By the impugned order, the Tribunal has awarded a sum of Rs.30,50,000/- as compensation together with interest at 7.5% per annum from the date of claim petition till the date of deposit, to the appellants/claimants.

3. The appellants are the wife, a minor daughter and the parents of the deceased Ravikumar. Facts are not in dispute. On 24.09.2007 at about 23.30 hrs., while the deceased Ravikumar was riding his two wheeler bearing Reg.No.TN-02-L-8017 and was proceeding from Anna Nagar to Medavakkam, a tipper lorry bearing Reg.No.TN-05-J-9090 allegedly driven in a rash and negligent manner came from behind and knocked the said two wheeler, knocked down the deceased Ravikumar, who sustained injuries and later died in the hospital. Therefore, the appellants filed the

above claim petition in M.A.C.T.O.P No.4643 of 2007 for compensation.

4. The Tribunal after considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving of the driver of the tipper lorry and therefore directed the 2nd respondent / Insurance Company to pay a sum of Rs.30,50,000/- as compensation together with interest and cost from the date of the claim petition till the date of deposit to the appellants/claimants. The break up of the amount awarded by the Lower Court are summarised below:-

For loss of dependency - Rs.24,000/- x 1/4x 12 x 14	Rs.30,24,000/-
Loss of consortium to the 1 st appellant	Rs. 10,000/-
Loss of love and affection to the 2 nd to 4 th appellants	Rs. 10,000/-
Funeral expenses	Rs. 6,000/-
Total	Rs.30,50,000/-

5. Not being satisfied with the amounts awarded by the Tribunal, the appellants have filed the present appeal for enhancement of compensation.

6. The learned counsel for the appellants submitted that the appellants are entitled to enhanced compensation towards loss of consortium, loss of love and affection, funeral expenses and loss of estate. The Tribunal has not awarded any compensation towards future prospects and the appellants prayed for setting aside the award of the Tribunal.

7. The learned counsel appearing for the second respondent-Insurance Company submitted that the Award passed by the Tribunal was well-reasoned and requires no interference.

8. I have considered the arguments advanced by the learned counsel for the appellants and the learned counsel for the 2nd respondent-Insurance Company and I have also perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

9. Enhancement of compensation towards future prospects can be considered as per the decision of the Hon'ble Supreme Court in the case of **National Insurance Co. Ltd. Vs. Pranay Sethi and Others**, (2017) 16 SCC 680.

10. The deceased was aged about 42 years at the time of the fatal accident. Therefore, 25% of the aforesaid admitted income of the deceased has to be considered enhancement of compensation on account of future prospects. The Tribunal has awarded only a sum of Rs.10,000/- towards consortium. As per

the decision of the Hon'ble Supreme Court in the case of **Magma General Insurance Company Ltd. Vs. Nanuram @ Chuhru Ram and Others**, (2018) 18 SCC 130, the wife of the deceased is entitled for a compensation towards loss of consortium at Rs.40,000/-. Accordingly, the same is enhanced to Rs.40,000/- to the 1st appellant. Similarly, the Tribunal has awarded only a sum of Rs.6,000/- towards funeral expenses. It is to be enhanced to Rs.15,000/-.

11. The Tribunal has not awarded any amount towards 'loss of estate' and loss of parental consortium to the 2nd appellant and hence, a sum of Rs.15,000/- and Rs.40,000/- are awarded under the same heads. The Tribunal has awarded only Rs.10,000/- towards loss of Love and affection to the 3rd and 4th appellants. As the same appears to be on the lower side, it is therefore enhanced to Rs.50,000/-.

12. In the light of the above decision, the compensation awarded by the Tribunal is re-quantified as follows :-

Heads and Calculation	Amount of compensation
<u>Loss of dependency:-</u>	
Monthly Income of the deceased : Rs. 30,000/-	
Add: Future Prospectus at 25% (30,000 x 25/100) : Rs. 7,500/-	

: Rs. 37,500/-	
Less: Personal Expenses at 1/4 th (37,500 x 1/4 th) : Rs. 9,375/-	

: Rs. 28,125	

Annual Income (28,125 x 12) : Rs. 3,37,500/-	
Deduction towards Income Tax as 10% : Rs. 33,750/-	

Rs. 3,03,750	
Multiplier – 14 (3,03,750 x 14) : Rs.42,52,500/-	
	Rs. 42,52,500/-
Loss of consortium	Rs. 40,000/-
Loss of parental consortium to the 2 nd appellant	Rs. 40,000/-
Loss of love and affection to the 3 rd and 4 th appellants	Rs. 40,000/-
Loss of Estate	Rs. 15,000/-
Funeral and Transportation expenses	Rs. 15,000/-
Total	Rs. 44,02,500

13. The appellants are directed to pay enhanced court fee, if any, on the enhanced compensation within a period of four weeks from the date of receipt of a copy of this Order. The 2nd respondent-Insurance Company is therefore directed to deposit the re-quantified amount of compensation of Rs.44,02,500/- together with interest at 7.5% per annum from the date of the claim petition till the date of such deposit, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

14. The enhanced amount of compensation of Rs.44,02,500/- is apportioned to the appellants as follows:-

<i>Appellants</i>	<i>Loss of dependency (Rs.42,52,500)</i>	<i>Consortium / Love and Affection</i>	<i>Funeral Expenses (Rs.15,000)</i>	<i>Loss of Estate (Rs.</i>	<i>Total</i>
1 st appellant	Rs.17,52,500/-	Rs.40,000/-	Rs.15,000/-	Rs.15,000/-	Rs.18,22,500
2 nd appellant	Rs.15,00,000/-	Rs.40,000/-			Rs.15,40,000
3 rd appellant	Rs. 5,00,000/-	Rs.20,000/-	-		Rs .5,20,000
4 th appellant	Rs. 5,00,000/-	Rs.20,000/-			Rs. 5,20,000
			Total		Rs.44,02,500

15. The 2nd appellant was aged about 13 years at the time of filing the claim petition before the Motor Accident Claims Tribunal in 2007, she would have attained the age of majority. The appellants/claimants are therefore permitted to withdraw their respective shares together with interest thereon at 7.5%, less any amount already withdrawn by them, by filing suitable applications before the Tribunal.

16. Accordingly, this Civil Miscellaneous Appeal is partly allowed with the above observations. No cost.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Chief Judge, Small Causes Court, Chennai

+1cc to Mr.N.M.Muthurajan, Advocate SR.NO..33645

AKM/16.04.21/4P-3C/

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