



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2020

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1464 of 2020

1.S.Priya
W/o.T.Kumaravadivel (Late)

2.K.Keshav (Minor),
S/o.T.Kumaravadivel (Late)

(minor appellant represented by his
mother S.Priya as his N.G and N.F.)

3.T.Usha
W/o.S.Thiyagarajan

4.S.Thiyagarajan
S/o.Srinivasan

... Appellants

vs

1.N.Sivaraj
S/o.Nasan

2.Royal Sundaram General Insurance
Company Ltd.,
Legal Department, Subramanian Building,
II Floor, No.1, Club House Road,
Anna Salai, Chennai - 2.

... Respondents

(since 1st respondent was set ex parte in
the lower Court notice to the said
respondent may be dispensed with in
the above Appeal).

Prayer: Civil Miscellaneous Appeal filed u/s.173 of the Motor Vehicles Act, 1988, against the order and decree dated 17.10.2019 passed in M.C.O.P.No.3219 of 2018 on the file of Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.



WEB COPY

For Appellant : Mr.K.Suriyanarayanan

For Respondents: Mr.G.Vasudevan [R2]

Ex parte [R1]

JUDGMENT

[Judgment of the Court was delivered by R.SUBBIAH, J]

This matter is heard through Video Conference.

2. Not being satisfied with the quantum of compensation awarded by the Tribunal in and by its judgment dated 17.10.2019 passed in M.C.O.P.No.3219 of 2018 on the file of Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai, appellants/claimants have filed the present appeal.

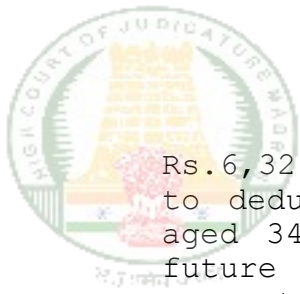
3. The brief facts of the case is as follows:

Appellants are wife, minor son and parents of the deceased T.Kumaravadivel respectively. On 17.04.2018 at about 19.30 hours, while the deceased was riding his motorcyle bearing Registration No.TN-09-BD-9101 on the Madipakkam Bazar Main Road, a Tanker Lorry bearing Registration No.TN-25-BZ-7799, came in a rash and negligent manner and hit the two-wheeler from behind, as a result of which the deceased fell down and the Tanker Lorry ran over him resulting in his instantaneous death. First respondent is the owner of the Tanker Lorry and second respondent is the insurer thereof. Appellants/claimants filed a claim petition seeking compensation in a sum of Rs.3,00,00,000/-.

4. Resisting the claim of appellants/claimants, second respondent insurance company had filed a counter.

5. Before the Tribunal, on the side of appellants/claimants, wife of the deceased examined herself as PW-1, one Mr.G.Prakash, HR Department, Inatech India Pvt. Ltd. examined as PW-2 and one Mr.Sowndar, eye-witness to the occurrence was examined as PW-3 and 43 documents were marked. On behalf of second respondent insurance company, one G.Ranjit Kumar was examined as RW-1 and no documents were marked. On appreciation of materials, the Tribunal has arrived at a finding that the accident had occurred due to the rash and negligent driving of the Tanker Lorry and awarded compensation as follows:

Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of dependency [(24000+40%-1/4)*12*16]	48,38,400/-



Rs.6,32,345/- as the annual average income of the deceased and to deduct Rs.60,000/- towards income tax. As the deceased was aged 34 at the time of accident, 40% has to be added towards future prospects and multiplier '16' has to be applied. In the present case, this Court considers that it would be appropriate to deduct 1/3 towards personal expenses. Accordingly, the compensation payable under the head 'loss of dependency' is recalculated as follows:

Annual Average Income	:	Rs. 6,32,345/-
Less: Income Tax	:	Rs. 60,000/-

		Rs. 5,72,345/-
Add : Future prospects		
40% of Rs.5,72,345/-	:	Rs. 2,28,938/-

		Rs. 8,01,283/-
Less : Personal expenses (1/3)	:	Rs. 2,67,094/-

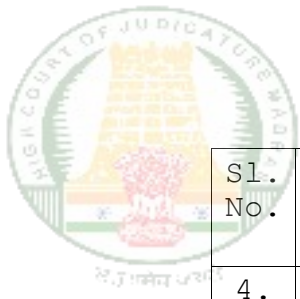
		Rs. 5,34,189/-
Multiplier	:	16

Loss of dependency	:	Rs.85,47,024/-

10. Further, this Court finds that only a sum of Rs.30,000/- was awarded towards loss of consortium and hence, the same is hereby enhanced to Rs.40,000/-. The amount awarded under the head loss of love and affection at the rate of Rs.10,000/- each to appellants/claimants, is set aside. Instead, a sum of Rs.1,20,000/- i.e. Rs.40,000/- each to appellants 2 to 4/claimants is awarded under such head. Since no amount was awarded towards loss of estate, a sum of Rs.15,000/- is awarded under such head. In all other aspects, the award of the tribunal is hereby confirmed.

11. Accordingly, the modified compensation payable would be:

Sl. No.	Compensation awarded under the head	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Loss of dependency	48,38,400/- [(24000+40%- 1/4)*12*16]	85,47,024/- [(632345 - 60000) + 40% - 1/3 *16]
2.	Loss of love and affection	40,000/- [10000 * 4]	1,20,000/- [40,000 * 3]
3.	Loss of consortium	30,000/-	40,000/-



WEB COPY

Sl. No.	Compensation awarded under the head	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
4.	Funeral expenses	15,000/-	15,000/-
5.	Loss of estate	-	15,000/-
	Total	49,23,400/-	87,37,024/-

In the result, the Civil Miscellaneous Appeal is partly allowed. The compensation awarded by the Tribunal in a sum of Rs.49,23,400/- is hereby enhanced to Rs.87,37,024/- [Rupees Eighty Seven Lakhs Thirty Seven Thousand and Twenty Four only]. Second respondent insurance company is directed to deposit the modified compensation of Rs.87,37,024/-, less the amount, if any, already deposited, together with interest at 7.5% p.a. from the date of petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. On such deposit, appellants 1, 3 and 4/wife and parents of the deceased are entitled to withdraw their respective shares, as apportioned by Tribunal, on due application. The share of minor appellant/son of the deceased shall be deposited in any nationalised Bank in fixed deposit till he attains majority and first appellant/mother of minor is entitled to withdraw interest once in three months. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

gm

To

The Motor Accident Claims Tribunal,
Chief Judge,
Court of Small Causes,
Chennai.

Copy To

The Section Officer,
VR Sectio, High Court, Madras.

+1cc to Mr.K.Suriyanarayanan, Advocate SR.No.36670

C.M.A.No.1464 of 2020

PM (CO)
GMY(07/05/2021)