



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.970 of 2021

1.Dhanam

2.R.Manigandan

3.Minor. R.Madhivanan

(Minor 3rd appellant represented by her Mother
and next friend, Dhanam, 1st appellant herein)

4.Sokkalingam

5.Venda

...Appellants / Petitioners

Vs.

1.V.S.Raju

2.The Reliance General Insurance Company Limited,
Legal Department, Reliance House,
6th Floor, No.6, Haddows Road,
Nungambakkam,
Chennai - 600 006.

...Respondents / Respondents

Prayer : This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.02.2020 made in M.C.O.P.No.2355 of 2018, on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai.

For Appellants : Mr.K.Varadhakamaraj

For R2 : Mr.S.Arun Kumar

J U D G M E N T

The matter is heard through "Video Conferencing/Hybrid mode".

2.This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 28.02.2020 made in M.C.O.P.No.2355 of 2018, on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai.



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3.The appellants are the claimants in M.C.O.P.No.2355 of 2018, on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai. They filed the above said claim petition, claiming a sum of Rs.45,00,000/- as compensation for the death of one Ravi, who died in the accident that took place on 22.02.2018.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the lorry owned by 1st respondent and directed the 2nd respondent to pay a sum of Rs.20,90,000/- as compensation to the appellants.

5.Not being satisfied with the amounts awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

6.The learned counsel appearing for the appellants contended that at the time of accident the deceased was aged 44 years, working as a Carpenter at M/s.S.M.G.R.Building & Contractors and Labour Contractors, Dr.M.G.R.Nagar, Padi Pudhu Nagar Road, J.J.Nagar East, Chennai - 600 103 and was earning a sum of Rs.1,000/- per day. But, the Tribunal has fixed a meagre sum of Rs.12,000/- per month as notional income of the deceased. The Tribunal ought to have fixed a sum of Rs.30,000/- as monthly income of the deceased as claimed by the appellants and awarded compensation. The total compensation awarded by the Tribunal is meagre and prayed for enhancement of compensation.

7.Per contra, learned counsel appearing for the 2nd respondent-Insurance Company contended that the appellants failed to prove their case that the deceased was working as Carpenter and was earning a sum of Rs.1,000/- per day. In the absence of any evidence, the Tribunal fixed a sum of Rs.12,000/- per month fixed as notional income of the deceased and granted excessive amount as compensation. This Court by the order dated 01.03.2021 in C.M.A.No.497 of 2021 filed by the 2nd respondent-Insurance Company confirmed the quantum of compensation granted by the Tribunal. In view of the same, the appellants are not entitled to any enhancement and prayed for dismissal of the appeal.

8.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent-Insurance Company and perused the entire materials on record.

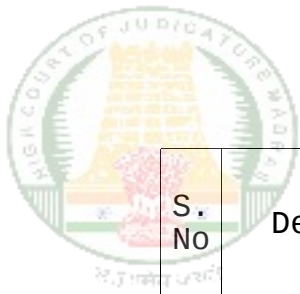
9.It is the case of the appellants that at the time of accident the deceased was aged 44 years, working as a Carpenter at M/s.S.M.G.R.Building & Contractors and Labour Contractors, Dr.M.G.R.Nagar, Padi Pudhu Nagar Road, J.J.Nagar East, Chennai - 600 103 and was earning a sum of Rs.1,000/- per day. They have not placed any materials to prove their case. In the absence of any materials, the Tribunal fixed a sum of Rs.12,000/- per month



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as notional income of the deceased. The accident is of the year 2018. The notional income fixed by the Tribunal is meagre. The contention of the learned counsel appearing for the 2nd respondent-Insurance Company that this Court by the order dated 01.03.2021 in C.M.A.No.497 of 2021 filed by the 2nd respondent-Insurance Company confirmed the quantum of compensation granted by the Tribunal and hence, the appellants are not entitled to any enhancement is concerned, the said appeal was filed by the 2nd respondent-Insurance Company and the same was dismissed at the stage of admission itself even without ordering notice to the respondents in the said appeal. The contention of the learned counsel appearing for the 2nd respondent-Insurance Company that the notional income of the deceased fixed by the Tribunal at Rs.12,000/- per month is excessive and also the total compensation awarded by the Tribunal is excessive is concerned, this Court dismissed the said appeal filed by the 2nd respondent-Insurance Company holding that the notional income fixed by the Tribunal is not excessive and total compensation also not excessive. In view of the same, the present contention of the learned counsel appearing for the 2nd respondent-Insurance Company that this Court confirmed the quantum of compensation in C.M.A.No.497 of 2021 is not acceptable. The accident is of the year 2018. The cost of living has increased enormously and salary of even unskilled workers has increased substantially. Hence, a sum of Rs.15,000/- per month is fixed as notional income of the deceased. As per Ex.P4/Death Certificate, the deceased was aged 44 years at the time of accident. The Tribunal following the judgments of the Hon'ble Apex Court reported in 2009 (2) TNMAC 1 SC Supreme Court, [Sarla Verma & others Vs. Delhi Transport Corporation & another] and 2017 (2) TNMAC 609 (SC), [National Insurance Company Limited Vs. Pranay Sethi and others], rightly applied multiplier '14' and granted 25% enhancement towards future prospects. There are five dependants of the deceased and the Tribunal has rightly deducted 1/4th towards personal expenses of the deceased. Thus, by fixing Rs.15,000/- per month as notional income of the deceased, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.23,62,500/- {Rs.18,750/- [Rs.15,000/- + Rs.3,750/- (25% of Rs.15,000/-)] X 12 X 14 X $\frac{3}{4}$ }. This Court is of the considered view that the amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same is hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	18,90,000/-	23,62,500/-	Enhanced



S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
2.	Loss of love and affection to appellants 2 to 5	1,25,000/-	1,25,000/-	Confirmed
3.	Loss of consortium to 1 st appellant	40,000/-	40,000/-	confirmed
4.	Funeral expenses	15,000/-	15,000/-	Confirmed
5.	Transportation	5,000/-	5,000/-	Confirmed
6.	Loss of estate	15,000/-	15,000/-	Confirmed
	Total	Rs.20,90,000/-	Rs.25,62,500/-	Enhanced by Rs.4,72,500/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.20,90,000/- is hereby enhanced to Rs.25,62,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent-Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.2355 of 2018, on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.I, Small Causes Court, Chennai. On such deposit, the appellants 1, 2, 4 & 5 are permitted to withdraw their respective share of the award amount now determined by this Court, as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. The share of the minor 3rd appellant is directed to be deposited in any one of the Nationalized Banks, till the minor 3rd appellant attains majority. On such deposit, the 1st appellant, being the Mother of the minor 3rd appellant is permitted to withdraw the accrued interest once in three months for the welfare of the minor 3rd appellant. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

1.The Special Subordinate Judge No.I,
Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.

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

+1cc to Mr.K.Varadhakamaraj, Advocate SR.No.19696

+1cc to Mr.S.Arunkumar, Advocate SR.No.19971

C.M.A.No.970 of 2021

VBM(CO)
RVM(29/10/2021)