



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1125 of 2016

1.K.Sulochana Bai
2.K.Pagalavan
3.K.Devi
4.K.Maheswari (minor)
5.K.Vinodh Kumar (minor)
(minor rep. by mother & N.G.
the first petitioner)

...Appellants/Petitioner

Vs

1. G.Chandra Babu
(1st remained exparte before the Trial Court)

2. United India Insurance Co. Ltd.,
No.38, Anna Salai,
Chennai - 600 002.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 13.04.2005 made in MACT.O.P.No.1196 of 2003, on the file of the Chief Judge, Small Causes Court (Motor Accident Claims Tribunal), Chennai.

For Appellants : Mr.R.Kalai Arasan
For Respondents : R1 - Exparte before Tribunal
Mr.M.J.Vijaya Raghavan for R2

J U D G M E N T

This appeal has been filed by the claimants seeking for enhancement of compensation under the impugned Award dated 13.04.2005 passed by the Motor Accident Claims Tribunal (Chief Judge Court of Small Causes), Chennai in M.C.O.P.No.1196 of 2003.

2.The Appellants/claimants are the legal representatives and the dependants of the deceased K.Kuppan, who died on 28.02.2003 as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent.

3.The Appellants/claimants have preferred a claim before the Motor Accident Claims Tribunal seeking compensation for the death of K.Kuppan.



4.The Motor Accident Claims Tribunal under the impugned Award directed the respondents to pay the Appellants a compensation of Rs.4,23,520/- together with interest and costs as detailed hereunder:

Particulars	Amount (Rs.)
Funeral expenses	5,000
Loss of consortium to the 1 st petitioner	7,500
Loss of expectation of life	5,000
Loss of pecuniary benefits and loss of estate of the deceased	3,98,520
Loss of love and affection	7,500
Total	Rs.4,23,520/-

5.The Appellants/claimants unsatisfied with the quantum of compensation awarded by the Tribunal have preferred this appeal seeking for enhancement.

6.Heard Mr.R.Kalai Arasan, learned counsel for the Appellants and Mr.M.J.Vijaya Raghavan, learned counsel for the second respondent. R1 remained exparte before the Tribunal, hence notice to R1 is dispensed with by this Court.

7.Before the Tribunal, the Appellants/claimants have filed 10 documents which were marked as Exs.P1 to P10 and two witnesses were examined on their side viz., the first Appellant, who is the wife of the deceased as PW1 and an eyewitness to the accident as PW2. On the side of the respondents neither any document was filed nor any witness examined before the Tribunal.

8.The accident happened on 28.02.2003. In the claim petition, the Appellants/claimants have pleaded that the deceased was a Village Assistant at Kallembedu Village and was earning Rs.3,320/- per month at the time of the accident.

9.The Tribunal has accepted the same as the Appellants/claimants have filed salary certificate of the deceased which has been marked as Ex.P4 and they have filed a copy of the service register which has been marked as Ex.P5 which discloses that the deceased was earning Rs.3,320/- per month at the time of the accident. However, the Tribunal failed to award any compensation towards loss of future prospects to the Appellants/claimants in accordance with settled law as laid down by the Hon'ble Supreme Court in the case of National



Insurance Co. Ltd. vs. Pranay Sethi reported in 2017 16 SCC 680. The deceased was aged 42 years at the time of the accident. Considering his age and the nature of his avocation, the Tribunal ought to have awarded loss of future prospects to the Appellants/claimants at 25%. Accordingly, the same is granted by this Court. Since the number of dependants are 5 in number, the Tribunal has rightly deducted $1/4^{\text{th}}$ towards personal expenses of the deceased. The Tribunal has rightly adopted the correct multiplier of 14 since the deceased was 42 years at the time of the accident. The same is confirmed by this Court. Therefore, the compensation towards loss of pecuniary benefits and loss of estate is enhanced from Rs.3,98,520/- fixed by the Tribunal to Rs.5,22,900/- by this Court. The details of the calculation for arriving at a compensation for the loss of pecuniary benefits and loss of estate are as follows:

Rs.3,320/- per month + Rs.830/- as future prospects at 25% = Rs.4,150/-

Rs.4,150/- x 12 = Rs.49,800/- per annum

After deducting $1/4^{\text{th}}$ of Rs.12,450/- towards personal expenses,

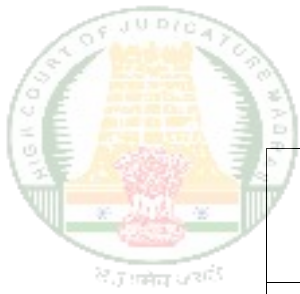
contribution to the family comes to = Rs.37,350/- x 14 = Rs.5,22,900/-

10.The Tribunal under the impugned Award has also awarded a meagre compensation towards funeral expenses, loss of consortium to the first Appellant/first claimant, who is the wife of the deceased and has also failed to Award any compensation towards loss of estate of the deceased. Therefore, this Court enhances the compensation awarded by the Tribunal towards funeral expenses from Rs.5,000/- to Rs.15,000/-, loss of consortium to the first Appellant/first claimant from Rs.7,500/- to Rs.40,000/- and also Awards compensation of Rs.15,000/- towards loss of estate of the deceased which was not awarded by the Tribunal erroneously.

11.The Tribunal has erroneously awarded Rs.5,000/- towards loss of expectation of life which is not in accordance with law. Accordingly, the same is set aside by this Court.

12.The Tribunal has also awarded a lesser compensation towards loss of love and affection to the second, third, fourth and fifth Appellant who are the children of the deceased. This Court fixes the same at Rs.10,000/- each for the children of the deceased and therefore, awards a total compensation of Rs.40,000/- instead of Rs.7,500/- fixed by the Tribunal.

13.For the foregoing reasons, the compensation awarded by the Tribunal at Rs.4,23,520/- is enhanced by this Court to Rs.6,32,900/- as detailed hereunder:



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Particulars	Award Amount (Rs.)	Enhanced/ modified Amount (Rs.)
Funeral expenses	5,000	15,000
Loss of consortium to the 1 st petitioner	7,500	40,000
Loss of expectation of life	5,000	-
Loss of pecuniary benefits and loss of estate of the deceased	3,98,520	5,22,900
Loss of love and affection	7,500	40,000
Loss of Estate	-	15,000
Total	Rs.4,23,520/-	Rs.6,32,900/-

14. In the result, the appeal is partly allowed. The second respondent Insurance Company is directed to deposit the enhanced amount awarded by this Court together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit after deducting the amount already deposited if any to the credit of MCOP.No.1196 of 2003 within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the respective shares of the Award amount lying to the credit of MCOP.No.1196 of 2003 to the bank account of the major Appellants/claimants 1 to 3 as per the ratio apportioned by the Tribunal through RTGS, within a period of one week thereafter. Since the Appellants 4 and 5 are minors, their respective shares of the award amount shall be deposited in interest bearing fixed deposit in any one of the Nationalised Banks, till they attain the age of majority. If the minor Appellants 4 and 5 have attained the age of majority, it is open for them to file a formal petition before the Tribunal to get their share of apportionment. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Judge, Small Causes Court
(Motor Accident Claims Tribunal), Chennai.

COPY TO:

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

+1 CC to Mr.N.M.Muthurajan, Advocate, Sr.No. 25496.

C.M.A.No.1125 of 2016

KK(CO)
PR(29/09/2021)