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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2021

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

CMA NO.1341 OF 2016

1. S.Sudalimuthupandian
2. S.Bala Logesh (minor)
3. S.Bala Srithar (minor)
Minors are rep. By father and natural guardian
Sudalimuthupandian

...Appellants/Petitioners

Versus

1. D.Rahim Sheriff
2. The New India Assurance Co. Ltd.,
No.372, TTK Road,
Alwarpet Road,
Chennai - 18.

...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the decree and judgment dated 02.04.2014 made in MCOP No.906 of 2010 on the file of Motor Accident Claims Tribunal (Special Sub Court - I), Chennai.

For Appellants : Mr.K.Varadhakamaraj

For Respondents : Ms.R.Sreevidhya for R2
R1 - Exparte

JUDGMENT

(Heard Video Conference)

This appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 02.04.2014 passed by the Motor Accidents Claims Tribunal, Special Sub Court, Chennai in MCOP No.906 of 2010.



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2. The Motor Accident Claims Tribunal, Special Sub Court, Chennai under the impugned award directed the respondents to pay the appellants / claimants a total compensation of Rs.33,56,200/- together with interests and costs as detailed hereunder :

Heads	Amount awarded by the Tribunal (Rs.)
Pecuniary loss Rs.16,100 x 12 x 16	30,91,200
Consortium	50,000
Love and affection	2,00,000
Funeral expenses	15,000
Total	33,56,200

3. Heard Mr.K. Varadha Kamaraj, learned counsel for the appellants / claimants and Ms.R.Sreevidha, learned counsel for the 2nd respondent / Insurance Company. R1 was set ex-parte before the Tribunal, hence notice to R1 is dispensed with.

4. This Court has perused the materials and evidence available on record before the Tribunal.

5. The deceased at the time of the accident was working as a Lecturer in Anna University, Chennai and was aged 36 years. Her Salary certificate was marked as Ex.P33 before the Tribunal, which confirms that she was earning Rs.23,378/-p.m., on the date of the accident. However, the Tribunal has erroneously fixed her monthly income as Rs.16,100/-. The nature of the avocation of the deceased as well as her salary slip, which was marked as Ex.P.33 have not been disputed by the respondents before the Tribunal. Therefore, the Tribunal ought to have accepted the monthly income of the deceased disclosed in Ex.P.33 salary slip which is Rs.23,378/-. Therefore, this Court enhances, the monthly income of the deceased from Rs.16,100/- to Rs.23,378/-. The deceased was aged 36 years at the time of the accident. Her age has also not been disputed by the respondents before the Tribunal. However, the Tribunal has erroneously adopted 16 multiplier instead of the correct multiplier of 15, which has to



be adopted for a person aged 36 years. The Tribunal has erroneously failed to award any compensation towards loss of future prospects to the appellants / claimants, which they are legally entitled to. The deceased was a Lecturer at Anna University at the time of the accident. Hence, as per the settled law, the loss of future prospects has to be assessed at 50%. Accordingly, this Court awards a compensation towards loss of future prospects at 50%. The appellants / claimants are the husband and two children of the deceased Prema Rajeswari. Since, the dependants are three in number, 1/3rd will have to be deducted towards personal expenses of the deceased. Accordingly, the same is deducted by this Court. Therefore, this Court enhances the pecuniary loss suffered by the appellants / claimants from Rs.30,91,200/- to Rs.42,08,040/-, as detailed hereunder :

$$\begin{aligned} \text{Rs.23,378/-} + 50\% &= \text{Rs.35067} \quad \text{Less Rs.11689/-} = \text{Rs.23,378/-} \\ &\times 12 \times 15 = \text{Rs.42,08,040/-} \end{aligned}$$

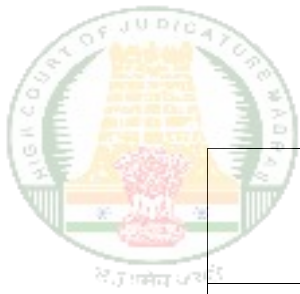
6. The Tribunal has awarded a compensation of Rs.50,000/- towards loss of consortium, which is on the higher side and not in accordance with the settled law and accordingly, this Court reduces the same to Rs.40,000/-.

7. The Tribunal has awarded an excess compensation of Rs.2,00,000/- towards loss of love and affection, which has to be necessarily reduced in accordance with the settled law. Accordingly, this Court awards a compensation of Rs.40,000/- to each of the minor children (2 x Rs.40,000/-) towards loss of love and affection instead of Rs.2,00,000/- fixed by the Tribunal.

8. The Tribunal has failed to award any compensation towards loss of estate which the appellants / claimants are legally entitled to. In accordance with the settled law, this Court fixes the compensation towards loss of estate at Rs.15,000/-.

9. The Tribunal has awarded a compensation of 15,000/- towards funeral expenses, which is in accordance with the settled law and the same is confirmed by this Court.

10. For the foregoing reasons, the award of the Tribunal is hereby enhanced in the following manner :



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Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Pecuniary loss *Rs.16,100 x 12 x 16 #Rs.23,378/- + 1/2 - 1/3rd Less Rs.11689/- = Rs.23,378/- x 12 x 15 = Rs.42,08,040/-	3091200 *	4208040 #
Consortium	50000	40000
Love and affection	200000	80000
Funeral expenses	15000	15000
Loss of estate	-	15000
Total	3356200	4358040

11. In the result, the appeal filed by the appellants / claimants, stands partly allowed by enhancing the compensation from Rs.33,56,200/- to Rs.43,58,040/-, as indicated above. No costs.

12. The second respondent / Insurance Company is directed to deposit the entire award amount as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of MCOP No.906 of 2010 on the file of Motor Accident Claims Tribunal (Special Sub Court - I), Chennai, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the major appellants / claimants through RTGS, within a period of two weeks thereafter as per the ratio of apportionment fixed by the Tribunal. Insofar as the share of the second and third appellants / minor claimants are concerned, the same shall be deposited in Fixed deposit in any one of the Nationalized Banks, till they attain the age of majority and the interest accrued thereon shall be withdrawn by the guardian of the minor claimants once in three months, directly from the Bank. If the minor claimants have attained



the age of majority, it is open to them to file formal petition before the Tribunal to get their share of apportionment. Necessary Court fee, if any has to be paid by the appellants before receiving the copy of this Judgment.

Sd/-
Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

vs12

To

The Judge,
Special Sub Court - I
Motor Accident Claims Tribunal,
Chennai.

+1cc to Mr.K.Varadhakamaraj, Advocate, S.R.No.28627

+1cc to Ms.R.Sreevidhya, Advocate, S.R.No.28622

CMA No.1341 of 2016

MG(CO)
RLP(08/10/2021)