

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 20.04.2021

C O R A M

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No. 1010 of 2018

1. S.Lakshmi
2. Minor Sridhar
3. Minor Nikitha
[Minor Petitioners 2 & 3 are represented
by their mother/guardian 1st appellant] ...Appellants

Vs.

1.R.R.Ramesh
2.The National Insurance Company Limited,
Divisional Office,
No.19, Officers Line,
Opposite to Lakshmi Theatre,
Vellore.

[No relief sought against the 1st respondent
Hence, notice may be dispensed with] ... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, enhance the award passed in judgment and decree dated 11.01.2018 made in M.C.O.P.No.328 of 2014 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Ranipet, Vellore.

For Appellant : Mr.M.Sivakumar

For R1 : Given up

For R2 : Mr.D.Bhaskaran

JUDGMENT

This Civil Miscellaneous Appeal is filed challenging the quantum of compensation awarded by the Tribunal.

2. The appellants are the claimants before the Tribunal.

3. The claimants mainly challenged the quantum of compensation awarded by the Tribunal in respect of the fixation of notional income of the deceased at Rs.6,000/- per month and failure of the Tribunal to award any amount towards loss of love and affection for two minor children and Transport Charges.

4. At this juncture, the learned counsel appearing for the second respondent/Insurance Company fairly suggested that the accident occurred on 08.10.2014. The fixation of Rs.6,000/- as monthly income by the Tribunal is on the lower side. The appellants themselves claimed in the claim statement that the deceased was drawing a sum of Rs.10,000/- per month at the time of

accident. Therefore, he suggested a sum of Rs.10,000/- may be fixed as notional income. Further, he fairly submitted that no amount was awarded towards the future prospects. In the present case, the age of the deceased at the time of accident was 45 years. Therefore, 25% future prospects may be added. Further he submitted that the loss of consortium Rs.40,000/- each to both the minor children may be awarded. He submitted that Rs.10,000/- may be added towards the Transport Charges.

5. In reply, the learned counsel appearing for the appellant fairly accepted the submission made by the learned counsel appearing for the Insurance Company. Therefore, the loss of income of the deceased is re-determined by this Court as follows:-

$$\begin{aligned}
 &= \text{Rs.10,000} + \text{Rs.2,500 (future prospects)} \\
 &= \text{Rs.12,500} \times \frac{1}{3} \text{ (deduction towards personal expenses)} \\
 &= \text{Rs.4,166/-} \\
 &= \text{Rs.12,500} - \text{Rs.4,166} \\
 &= \text{Rs.8,333/-p.m.}
 \end{aligned}$$

In the present case, the age of the deceased at the time of accident was 45 years and multiplier applicable is "14". Therefore, the loss of income is as follows:-

$$\begin{aligned}
 &= \text{Rs.8,333} \times 12 \times 14 \\
 &= \text{Rs.13,99,944 rounded of Rs.14,00,000/-}
 \end{aligned}$$

6. The Tribunal awarded a sum of Rs.40,000/- towards consortium to the wife of the deceased and a sum of Rs.15,000/- towards funeral expenses and a sum of Rs.10,000/- towards loss of estates and the same are stands confirmed. No amount was awarded towards the loss of love and affection and parental consortium to the two minor children. Therefore, a sum of Rs.40,000/- each is awarded. No amount was awarded by the Tribunal towards transport charges. Thus a sum of Rs.10,000/- awarded towards Transport expenses. Accordingly a sum of Rs.9,10,000/- awarded by the Tribunal stands re-determined as follows:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)
1.	Loss of Dependency	8,40,000	14,00,000
2.	Loss of Consortium (Wife & Children)	40,000	1,20,000
3.	Funeral Expenses	15,000	15,000
4.	Loss of Estate	15,000	15,000
5.	Transportation Charges	--	10,000
	Total	9,10,000	15,60,000

7. The award passed by the Tribunal at a sum of Rs.9,10,000/- is increased to Rs.15,60,000/-. The first claimant, the wife of the deceased is entitled to get Rs.9,60,000/-. The second claimant viz., Minor Sridhar is entitled to get Rs.3,00,000/- and the third claimant viz., Minor Nikitha is entitled to get Rs.3,00,000/-.

8. The Insurance Company is directed to deposit the entire award amount

along with 7.5% interest from the date of filing of the petition till the date of payment after deducting, amount if any deposited before the Court below within a period of eight weeks from the date of receipt of a copy of this order.

9. Accordingly, the Tribunal is directed to pay the entire compensation awarded in this appeal with interest within a period of three weeks from the date of deposit of the amount by the Insurance Company by way of RTGS to the bank account of the eligible claimant or from the date of filing an application for withdrawal of the award amount, whichever is later. The amount awarded to the two minor children shall be deposited in a nationalized bank till the minor claimants attain majority. The first appellant, mother is entitled to get the interest every six months.

10. Accordingly, the Civil Miscellaneous Appeal is allowed. No order as to costs.

WEB COPY

20.04.2021

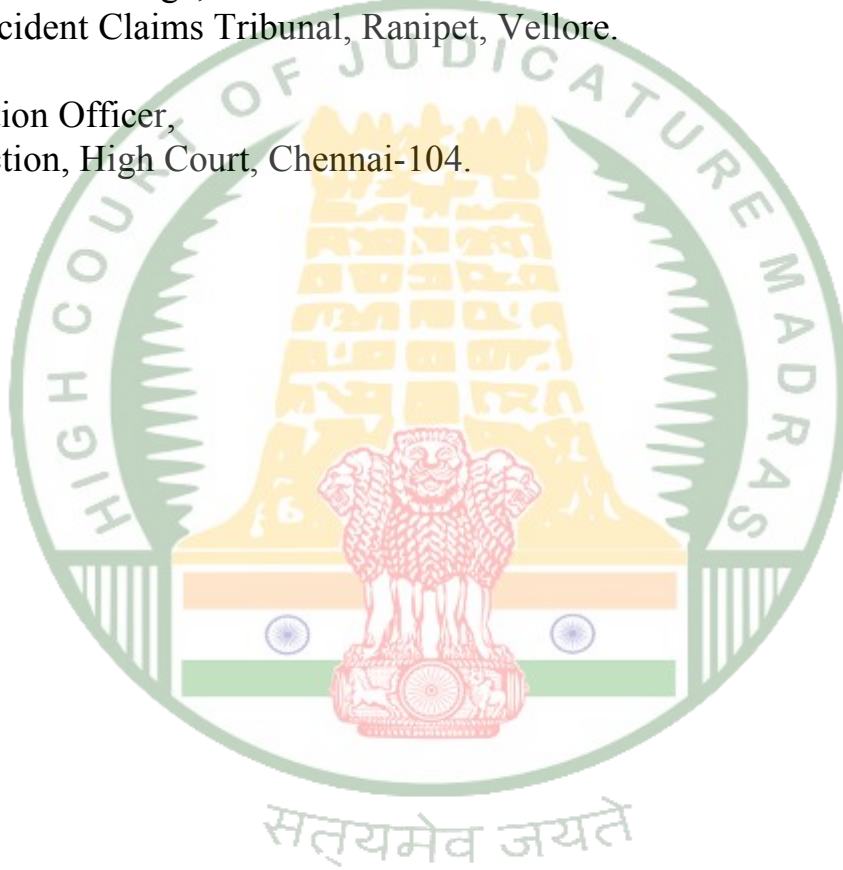
Index : Yes/No

Speaking Order : Yes/No

msm

To

1. The National Insurance Company Limited,
Divisional Office,
No.19, Officers Line,
Opposite to Lakshmi Theatre, Vellore.
2. The Subordinate Judge,
Motor Accident Claims Tribunal, Ranipet, Vellore.
3. The Section Officer,
V.R.Section, High Court, Chennai-104.



WEB COPY

KRISHNAN RAMASAMY, J.

msm



C.M.A.No. 1010 of 2018

WEB COPY

20.04.2021