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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2021

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1762 of 2016

1.Kamalakannan
2.Lakshmi
3.Pavithra (minor)
Rep. by her next friend
/ Father/natural guardian,
the first petitioner, herein) ... Appellants / Petitioners

..Vs..

1.S.Govindhan
(Given up)
2.The Branch Manager,
Reliance General Insurance,
No.89, 100 feet Road, Vivyan Plaza,
Ground Floor, Mudaliarpeta,
Puducherry - 605 004. ...Respondents / Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and decree dated 24.10.2014 in M.C.O.P.No.351 of 2011 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Puducherry.

For Appellant : Mr.R.Sreedher

For Respondent 2: Mr.S.Arunkumar

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 24.10.2014 passed by the Motor Accident Claims Tribunal (Principal District Judge, Puducherry) in MCOP.No.351 of 2011.



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2. Heard Mr.R.Sreedher, learned counsel for the Appellants/claimants and Mr.S.Arun kumar, learned counsel for the second respondent/ Insurance Company.

3. The Appellants/claimants unsatisfied with the quantum of compensation awarded by the Tribunal have preferred this Appeal seeking for enhancement. Under the impugned award, the Tribunal directed the second respondent to pay the Appellants/claimants a sum of Rs.3,50,000/- as lumpsum compensation together with interests and costs for the death of Bharath (minor).

4. The deceased Bharath was a paramedical student, studying DMLT and aged 17 years at the time of the accident. The age and the fact that the deceased was a paramedical student has not been disputed by the second respondent Insurance Company before the Tribunal. The accident happened on 15.05.2011. The Appellants/claimants are the parents and the minor sister of the deceased. The dependency of the Appellants/claimants have also not been disputed by the second respondent/Insurance Company before the Tribunal.

5. This Court has perused and examined the impugned Award and is of the considered view that the Tribunal has erroneously awarded a meagre compensation of Rs.3,50,000/- to the Appellants/claimants and the Tribunal ought not to have fixed the same on lumpsum basis. The Tribunal ought to have fixed the notional monthly income of the deceased and ought to have awarded compensation towards loss of future prospects, Filial consortium, loss of estate and funeral expenses in accordance with settled law.

6. The deceased Bharath being a paramedical student and the accident having happened on 15.05.20211, this Court fixes his notional monthly income at Rs.5,000/-. This Court awards 40% towards future prospects and adopts 15 multiplier as per the settled law for arriving at the compensation towards loss of income. Since the deceased was a bachelor at the time of the accident, this Court deducts 50% towards his personal expenses. Accordingly, the loss of income is arrived at Rs.6,30,000/- (5000 + 40% = 7000 x 12 x 15 = 1260000 - 50%)



7. This Court also awards a compensation of Rs.80,000/- towards filial consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses as per the settled law.

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8. For the foregoing reason, the impugned award passed by the Tribunal is modified as hereunder:

Heads	Amount (Rs.)
Loss of Income	6,30,000/- (5000 + 40% = 7000 x 12 x 15 = 1260000 - 50%)
Filial consortium	80,000/-
Loss of Estate	15,000/-
Funeral Expenses	15,000/-
Total	7,40,000/-

9. Accordingly, the amount awarded by the Tribunal is enhanced from Rs.3,50,000/- to Rs.7,40,000/-.

Conclusion:

10. In the result, this appeal shall stand partly allowed. The Second Respondent Insurance Company is directed to deposit the amount awarded by this Court i.e. Rs.7,40,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit and costs after deducting the amount already deposited to the credit of MCOP.No.351 of 2011 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of the award amount lying to the credit of MCOP.No.351 of 2011 to the bank account of the Appellants 1 & 2/ claimants 1 & 2 through RTGS as per the ratio apportioned by the Tribunal within a period of one week thereafter. Since the third Appellant/third claimant is a minor, her respective share of the award amount shall be deposited in interest bearing fixed deposit in any one of the Nationalised Banks, till she attains majority and the first Appellant who is the father for the minor is permitted to withdraw the interest



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once in six months for the welfare of the minor. If the minor has attained the age of majority, it is open for her to file a formal petition to declare her as major. No costs.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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1. The Principal District Judge,
(The Motor Accident Claims Tribunal),
Puducherry

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

+1cc to M/s.Sreethi Law firm, Advocate, S.R.No.28353

C.M.A.No.1762 of 2016

PA(CO)
SB(29/10/2021)