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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.01.2021

PRONOUNCED ON : 08.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA.No.797 of 2015

1.Rani

2.Sekar

3.Minor.Kaliyammal,

Represented by her Guardian

Mother Rani

.. Appellants/Petitioners

.. Vs ..

1.Sree Madhukar Tukkaram Ingals, Belgaum,

Baukhanna Motor Works Road,

Belgaum,

Karnataka State.

2.The Divisional Manager,

The New India Assurance Company Limited,

No.106, Big Street,

Thiruvannamalai

.. Respondents/Respondents

PRAYER: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 29.09.2006, made in MCOP.No.853 of 2005, on the file of the Motor Accident Claims Tribunal, Tiruvannamalai, (District Court, Tiruvannamalai District).

For Appellants : Mr.F.Terry Chellaraja

For R1 : No appearance

For R2 : Mr.J.Chandran



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JUDGMENT

(The case has been heard through video conference)

Claimants are the appellants herein.

2.This appeal has been preferred by the claim petitioners seeking enhancement of compensation awarded in MCOP.No.853 of 2005, by the Motor Accident Claims Tribunal, Tiruvannamalai.

3.The factum of the accident, manner of the accident and rash and negligent driving on the part of the driver of the first respondent's vehicle, which is insured with the second respondent are not under challenge.

4.During the course of the trial, before the Tribunal, on behalf of the petitioners, second petitioner viz., Sekar was examined as PW1 and marked Exs.P1 to P4 and on behalf of the respondents no witness has been examined.

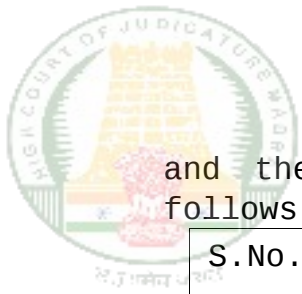
5.Heard the learned counsels on the point of quantum of compensation and perused the materials placed on record.

6.On a perusal of the documents, it appears that the deceased viz., Raji aged about 20 years bachelor, said to have been working as a fruit vendor. Based upon Ex.P3/post-mortem certificate, the Tribunal has fixed the age of the deceased at 20 years and adopted multiplier 16. Since, the deceased have three dependents, 1/3rd deduction was allowed. Date of the accident is 16.09.2005, no positive evidence has been placed except oral evidence of PW1 and hence, the Tribunal has fixed the income of the deceased at Rs.1,500/- per mensem and awarded a sum of Rs.1,98,000/- as total compensation.

7.Based upon Ex.P3/postmortem certificate, considering the age of the deceased and the evidence of PW1, this Court adopted the multiplier 18 and since, the dependents are the parents and the sister of the deceased, deduction ought to have been ½ (50%). Accordingly this Court is inclined to fix the income of the deceased at Rs.4,500/- per month and the future prospects fixed at 40% and accordingly, the pecuniary loss sustained by the claim petitioners are re-assessed as under:

$4,500 + 40\% \text{ of } 4,500 = \text{Rs.}6,300/-$

$6,300 \times \frac{1}{2} \times 12 \times 18 = \text{Rs.}6,80,400/-$



and the compensation under various heads are re-assessed as follows:

S.No.	Description	Amount awarded by the Tribunal(in Rs.)	Amount awarded by this Court (in Rs.)
1	pecuniary loss	1,92,000/-	6,80,400/-
2	Loss of love and affection	5,000/-	40,000/- (parents) 25,000/- (sister)
3	Funeral expenses	1,000/-	15,000/-
4	Loss of estate	-	15,000/-
5	Transportation Charges	-	5,000/-
	Total	1,98,000/-	7,80,400/-

Hence, compensation awarded by the Tribunal is reassessed and enhanced from Rs.1,98,000/- to Rs.7,80,400/-(Rupees Seven Lakhs Eighty Thousand Four Hundred Only).

8.In the result,

(a)This Civil Miscellaneous Appeal is partly allowed to the limited extent indicated as above.

(b)The second respondent/Insurance Company is directed to deposit the award amount as ordered by this court to the credit of MCOP.No.853 of 2005, on the file of the Motor Accident Claims Tribunal, Tiruvannamalai, (District Court, Tiruvannamalai District), within a period of eight weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

(c)The award amount will carry interest at the rate of 7.5% per annum.

(d)On such deposit, the first petitioner is permitted to withdraw a sum of Rs.3,06,160/- and the second petitioner is permitted to withdraw a sum of Rs.2,70,390/- with proportionate interests, less the amount already withdrawn, if any. In respect of the third petitioner/minor sister of the deceased, she is permitted to withdraw a sum of Rs.2,03,850/- after she attains majority and till that time, the respective amount will be deposited in a nationalized bank in the form of fixed deposit.



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- (e) The claimants shall pay necessary Court fee, if any,
on the enhanced compensation.
(f) No costs.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

The District Judge,
Motor Accident Claims Tribunal,
District Court,
Tiruvannamalai.

+1CC to M/s.M.Malar, Advocate, SR.No. 15306

CMA.No.797 of 2015

VG II(CO)
B.VC (09/11/2021)