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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1999 of 2016

1.Tmt.P.Dhanalakshmi  
2.N.Paramasivam  
3.P.Sathyapriya

...Appellants/Claimants

Vs

1.A.Raja Mohamed  
2.Shriram General Insurance Co Limited,  
No.66, Thirumalai Pillai Road,  
T.Nagar, Chennai - 600 017.  
(The 1st respondent set exparte in lower court,  
hence notice dispensed with)

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 18.04.2013 made in M.C.O.P.No.857 of 2011 On the file of Motor Accident Claims Tribunal, (VI Small Causes Court), Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : R1 - Exparte before Tribunal  
Mr.K.Poomalai for R2

#### J U D G M E N T

This appeal has been filed by the claimants seeking enhancement of compensation under the impugned Award dated 18.04.2013 passed by the Motor Accident Claims Tribunal, VI Court of Small Causes, Chennai in MCOP.No.857 of 2011.

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

3.The details of the impugned award are as follows :-

| Particulars                            | Amount (Rs.) |
|----------------------------------------|--------------|
| Loss of income is<br>(6,000x12x18x1/2) | 6,48,000     |



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| Particulars              | Amount (Rs.) |
|--------------------------|--------------|
| Funeral expenses         | 5000         |
| Loss of love & affection | 20000        |
| Total                    | 6,73,000     |

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

5.Heard Mr. K.Varadha Kamaraj, learned counsel for the appellants and Mr.K.Poomalai, learned counsel for the second respondent. R1 remained ex-parte before the Tribunal, hence notice to R1 is dispensed with.

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

7.The Appellants/claimants are the Legal Representatives and the dependants of the deceased Sathish Kumar, who died as a bachelor at the age of 20 years caused by a vehicle insured with the second respondent / Insurance Company. In the claim petition, the Appellants/claimants have pleaded that the deceased was a bakery Salesman earning Rs.15,000/- per month at the time of the accident.

8a.The accident happened on 18.02.2011. The Tribunal assessed the notional monthly income of the deceased at Rs.6,000/-. No contra evidence has also been produced by the respondents before the Tribunal to disprove the avocation of the deceased. This Court is of the considered view that considering the avocation of the deceased, the Tribunal ought to have fixed his notional monthly income at a higher sum. After giving due consideration to the year of the accident which happened in the year 2011, this Court fixes the notional monthly income of the deceased at Rs.7,500/- instead of Rs.6,000/- fixed by the Tribunal.

8b.The Tribunal has also not awarded any compensation towards loss of future prospects to the Appellants/claimants which they are legally entitled to as per the decision of the Hon'ble Supreme Court in the case of National Insurance Co. Ltd. vs. Pranay Sethi reported in 2017 16 SCC 680. Accordingly, this Court fixes the loss of future prospects at 40% in accordance with the said judgment.

8c.The Tribunal has rightly deducted 50% towards personal expenses of the deceased as he was a bachelor at the time of the accident, in accordance with the decision of Hon'ble Supreme



Court in the case of Sarala Verma & Ors vs Delhi Transport Corporation & Another reported in 2009 6 SCC 121. Accordingly, the compensation awarded under the head loss of income is enhanced from Rs.6,48,000/- to Rs.11,34,000/- (Rs.7,500 +40%= Rs.10,500 x 12 x 18 x 12)

9.The Tribunal has also awarded a lesser compensation of Rs.5,000/- towards funeral expenses and Rs.20,000/- towards loss of love and affection. If the ratio laid down by the Hon'ble Supreme Court in Pranay Sethi's case referred to supra was applied, the funeral expenses will have to be enhanced to Rs.15,000/- and loss of love and affection will have to be enhanced to Rs.50,000/-. Accordingly, this Court enhances the compensation towards funeral expenses from Rs.5,000/- to Rs.15,000/- and towards loss of love and affection from Rs.20,000/- to Rs.50,000/-.

10.The Tribunal has also failed to award any compensation towards loss of estate which the Appellants/claimants are legally entitled to in accordance with the settled law. Accordingly, this Court awards a compensation of Rs.15,000/- to the Appellants/claimants towards loss of estate. The Tribunal has also rightly applied correct multiplier of 18 in accordance with the settled law.

11.For the foregoing reasons, the award of the Tribunal is hereby modified in the following manner :

| Heads                                                                                | Amount awarded<br>by the Tribunal<br>(Rs.) | Amount awarded by<br>this Court<br>(Rs.) |
|--------------------------------------------------------------------------------------|--------------------------------------------|------------------------------------------|
| Loss of income<br>*Rs.6,000x12x18x1/2<br>#Rs.7,500 +40%= Rs.10,500<br>x 12 x 18 x 12 | 6,48,000<br>*                              | 11,34,000<br>#                           |
| Funeral expenses                                                                     | 5,000                                      | 15,000                                   |
| Loss of love & affection                                                             | 20,000                                     | 50,000                                   |
| Loss of Estate                                                                       | -                                          | 15,000                                   |
| Total                                                                                | Rs.6,73,000                                | Rs.12,14,000                             |

12.In the result, the appeal filed by the appellants / claimants, stands partly allowed by enhancing the compensation from Rs.6,73,000/- to Rs.12,14,000/- as indicated above. No costs.

13.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 M.C.O.P. No.857 of 2011 on the file of the Motor Accident Claims Tribunal, (VI Small Causes Court), Chennai, 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 award amount directly to the bank account of the appellants /claimants, as per the ratio of apportionment fixed by the Tribunal through RTGS, within a period of two weeks thereafter. The requisite Court fee, if any has to be paid by the appellants/claimants before receiving the copy of this Judgment.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

vsi2/pam

To

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

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

+1cc to Mr.K.Varadhakamaraj, Advocate, S.R.No.23973

+1cc to M/s.K.Poomalai, Advocate, S.R.No.23979

C.M.A.No.1999 of 2016

CNR(CO)  
CB(21/10/2021)