

C.M.A.No.872 of 2020

C.SARAVANAN, J.

At request of the learned counsel for the appellants, this Civil Miscellaneous Appeal was listed under the caption for being mentioned after the order was passed on 09.04.2021.

2. The learned counsel for the appellants submits that by mistake, the amount towards loss of consortium has not been awarded for the first appellant. He therefore submits that as per the decision of the Hon'ble Supreme Court in **Magma General Insurance Company Limited Vs. Nanuram @ Chuhru Ram and Others**, (2018) 18 SCC 130, a sum of Rs.40,000/- is to be awarded towards loss of consortium to the first appellant and a sum of Rs.40,000/- each is to be awarded towards loss of parental consortium to the second and third appellants.

3. Heard the learned counsel for the appellants and the learned counsel for the second respondent.

4. It is noticed that the second and third appellants at the time of death of their father, namely R.Narasimman, were aged about 41 years and 35 years respectively and therefore it cannot be stated that they were entitled for compensation towards the parental consortium. At the same time, the loss of their father certainly would result the loss of love and affection and therefore, compensation can be granted though such loss cannot be quantified. The first appellant is entitled for the amount of Rs.40,000/- towards loss of consortium and the second and third appellants are entitled for the amount of Rs.25,000/- each towards loss of love and affection due the death of their father R.Narasimman.

5. Considering the same, in the Column No.5, in the table in Paragraph 7 of the order dated 09.04.2021, an amount of Rs.40,000/- shall be substituted with the amount of Rs.25,000/- as per the decision of the Hon'ble Supreme Court in **Magma General Insurance Company Limited Vs. Nanuram @ Chuhru Ram and Others**, (2018) 18 SCC 130 and a sum of Rs.50,000/- (Rs.25,000/- x 2) is added towards love and affection to the second and third appellants since they were the married daughter at the time of death of their father.

6. Accordingly, from Paragraph Nos.7 to 10 of the Judgment dated 09.04.2021 shall be substituted as follows :-

7. In my view, the Tribunal has considered a meagre income of Rs.6,500/- for awarding and determining the compensation. In my view, a watchman / security guard who aged about 65 years may have earned atleast Rs.7,500/- per month. Therefore, I am inclined to consider a notional income of the deceased Narasimman as Rs.7,500/- per month. The first appellant is entitled for the amount of Rs.40,000/- towards loss of consortium as per the decision of the Hon'ble Supreme Court in **Magma General Insurance Company Limited Vs. Nanuram @ Chuhru Ram and Others**, (2018) 18 SCC 130 and the second and third appellants are entitled for the amount of Rs.25,000/- each towards loss of love and affection as the second and third appellants at the time of death of their father R.Narasimman were aged about 41 years and 35 years respectively. Therefore, the compensation awarded by the Tribunal is re-computed as follows:

<i>Sl. No</i>	<i>Heads of Compensation</i>	<i>Amount Awarded by the Tribunal</i>	<i>Amount Awarded by this Court</i>	<i>Award Confirmed or enhanced</i>
1	Towards loss of Dependency	*Rs.2,60,000/-	**Rs.3,00,000/-	Enhanced
2	Towards Loss of Estate	Rs.15,000/-	Rs.15,000/-	Confirmed
3	Towards Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
4	Towards Transport Charges	Rs.10,000/-	Rs.10,000/-	Confirmed

Sl. No	Heads of Compensation	Amount Awarded by the Tribunal	Amount Awarded by this Court	Award Confirmed or enhanced
5	Towards Loss of consortium	-	Rs.40,000/-	Awarded
6	Towards Loss of Love and Affection	Rs.25,000/-	#Rs.50,000/-	Enhanced
Total		Rs.3,25,000/-	Rs.4,30,000/-	enhanced by another Rs.1,05,000/-

* Rs.6,500 x 12 x 5 x 2/3

** Rs.7,500 x 12 x 5 x 2/3

Rs.25,000 x 2

Thus, the compensation awarded by the Tribunal is enhanced to Rs.4,30,000/- from Rs.3,25,000/-.

8. Accordingly, the 2nd respondent / Insurance company is directed to deposit a sum of Rs.4,30,000/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of payment, less the amount already deposited, if any, before the Tribunal, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

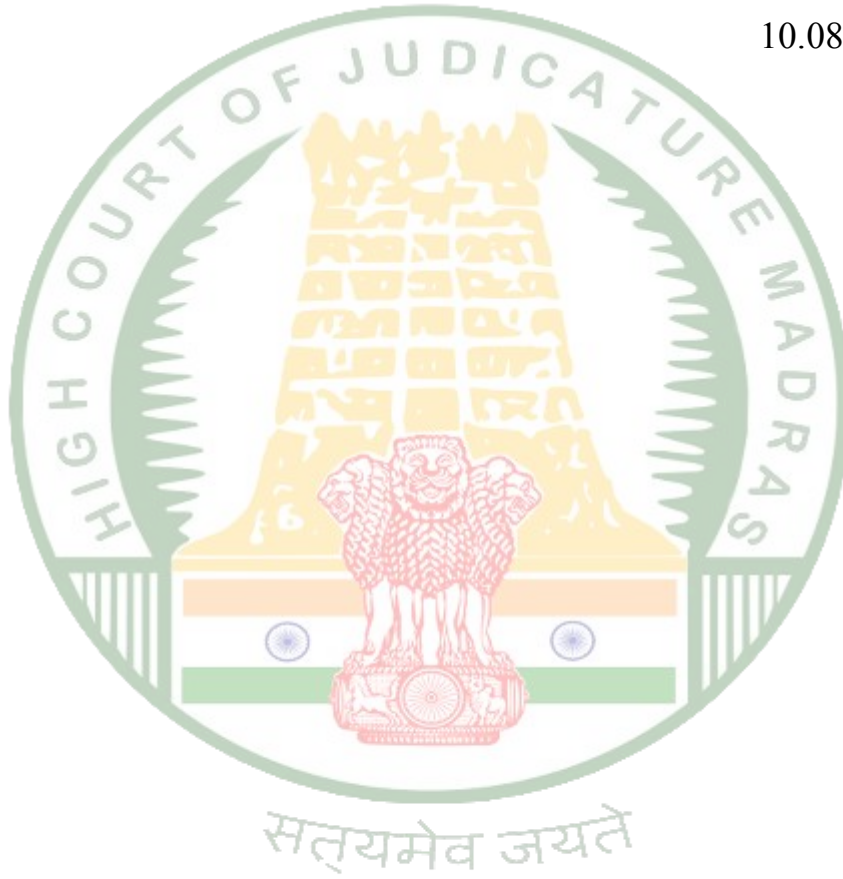
9. On such deposit, the appellants are entitled to withdraw the compensation in the same proportion as was ordered by the Tribunal, together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal stands partly allowed. No cost.

7. Registry is directed to carry out the above corrections and issue fresh order copy to the parties.

10.08.2021

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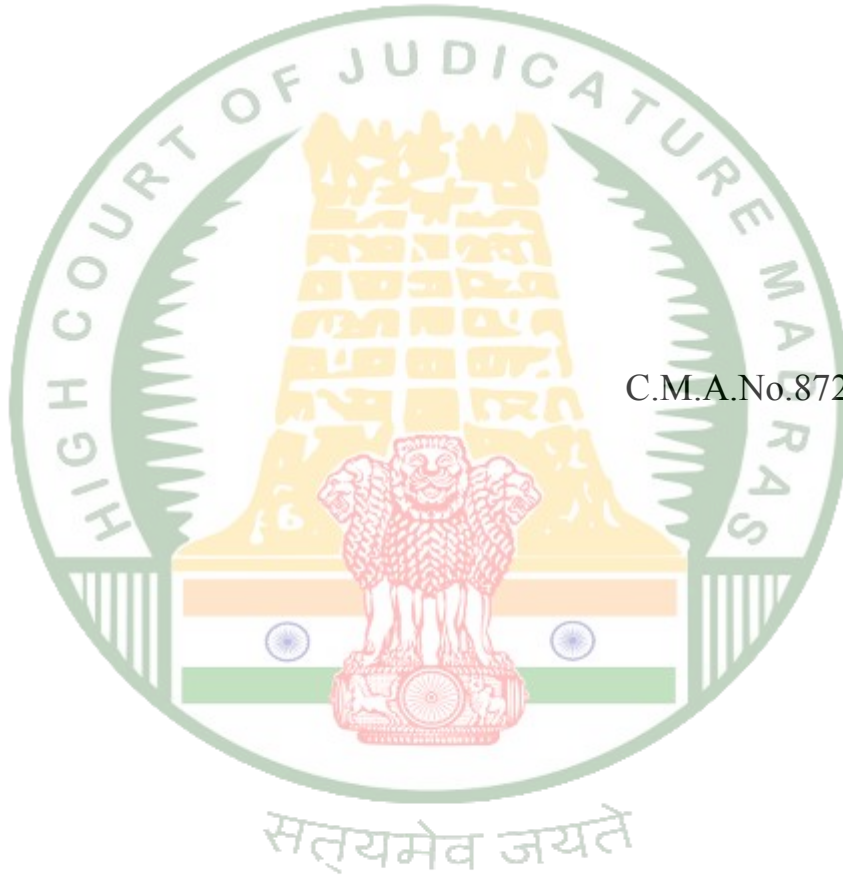


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10.08.2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.872 of 2020

(Through Video Conferencing)

1.N.Indhumathy
2.N.Sabeetha
3.R.Loganayagi

... Appellants

Vs.

1. G.Arunagiri
2.Reliance General Insurance Company Limited,
Reliance House, 6th Floor,
No.6, Haddows Road,
Nungambakkam,
Chennai – 6.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Decree and Judgment dated 20.07.2018 made in M.C.O.P.No.8708 of 2015, on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For Appellants : Mr.M.Sivakumar
For R1 : No Appearance
For R2 : M/s.C.Bhuvana Sundari

JUDGMENT

The claimants are the appellants in this appeal. They are aggrieved by the impugned Judgment and Decree dated 20.07.2018 passed by the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai. In this appeal, the appellants seek to claim enhancement of compensation.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.3,25,000/- as compensation to the appellants.

3. The learned counsel for the appellants would submit that the appellants have sought for enhancement of compensation on the ground that the Tribunal has considered a meagre income of Rs.6,500/- as monthly income of the deceased. It is further submitted that the Tribunal ought to have adopted multiplier 7 as per the decision of the Hon'ble Supreme Court in 2009(2) TNMAC 1 (SC) **Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another.**

4. Defending the impugned judgment and decree, the learned counsel for the 2nd respondent / Insurance Company submits that the Tribunal has come to the fair conclusion on facts and awarded just compensation. It is further submitted that the accident is of the year 2015 and the deceased was aged about 65 years and therefore he would not have earned more than Rs.10,000/- per month. He submits that the Tribunal has correctly considered a notional income of Rs.6,500/- per month of the deceased for determining and awarding the aforesaid compensation to the claimants.

5. The learned counsel for the 2nd respondent / Insurance company further submitted that the Tribunal has adopted a correct multiplier 5, considering the fact that the deceased would have been more than 70 years as the 1st appellant was aged about 60 years and the 2nd appellant was aged about 41 years.

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6. Heard the learned counsel for the appellants and the learned counsel for the second respondent and perused the documents filed in support of the above claim petition before the claim Tribunal.

7. In my view, the Tribunal has considered a meagre income of Rs.6,500/- for awarding and determining the compensation. In my view, a watchman / security guard who aged about 65 years may have earned atleast Rs.7,500/- per month. Therefore, I am inclined to consider a notional income of the deceased Narasimman as Rs.7,500/- per month. Therefore, the compensation is recomputed as follows:

S. No	Heads of Compensation	Amount Awarded by the Tribunal	Amount Awarded by this Court	Award Confirmed or enhanced
1.	Towards loss of Dependency	Rs.2,60,000/- (Rs.6,500 x 12 x 5 x 2/3)	Rs.3,00,000/- (Rs.7,500 x 12 x 5 x 2/3)	Enhanced
2.	Towards Loss of Estate	Rs.15,000/-	Rs.15,000/-	Confirmed
3.	Towards Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
4.	Towards Transport Charges	Rs.10,000/-	Rs.10,000/-	Confirmed
5.	Towards Loss of Love and Affection	Rs.25,000/-	Rs.25,000/-	Confirmed
	Total	Rs.3,25,000/-	Rs.3,65,000/-	Rs.3,25,500/- enhanced to Rs.3,65,000/-

Thus, the compensation awarded by the Tribunal is enhanced to Rs.3,65,000/- from Rs.3,25,000/-.

8. Accordingly, the 2nd respondent / Insurance company is directed to deposit a sum of Rs.3,65,000/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of payment to the credit of MCOP.No.8708 of 2015 before the Motor Accidents Claim Tribunal, Chief Judge, Court of Small Causes, Chennai, less the amount already deposited, if any within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. On such deposit, the Appellants are entitled to withdraw the compensation in the same proportion as was ordered by the Tribunal, together with interest accrued thereon, less the amount already withdrawn if any, by filing suitable application before the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal stands partly allowed. No cost.

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09.04.2021

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Index : Yes/No

Internet : Yes/No

To:

- 1.The Motor Accidents Claims Tribunal,
Chief Judge, Court of Small Causes,
Chennai.
- 2.The Section Officer,
VR Section,
High Court,
Madras.



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