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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.07.2021

CORAM

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A. No.1513 of 2021

1. Selvi
2. Periyasamy
3. Sathish
4. Minor Saraswathi
5. Nallammal (died) ...Appellants/Petitioners

*[4th minor appellant is rep. by next friend
and guardian 1st appellant]

Versus

1. Venkatachalam
2. Manager,
ICICI Lambord General Insurance Company,
I Floor, SP Tower, Opp. Ramesh Theatre,
Trichy Road,
Namakkal, 637001. ...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 10.02.2020 in MCOP.No.714 of 2017 on the file of Motor Accidents Claims Tribunal/Additional District Court (FAC), Namakkal.

For appellant	:	Mr.C.Thangaraju
For respondents	:	M/s.R.Srividhya
for R2	:	

J U D G M E N T

The appeal is heard through video conferencing.

2. Not being satisfied with the quantum of compensation awarded by the Motor Accidents Claims Tribunal/Additional District Court, Namakkal, in MCOP No.714 of 2017, dated 10.02.2020, the present appeal has been filed by the claimants for enhancement of the compensation amount.



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3. It is the case of the appellants/claimants, who are the wife, children and mother of the deceased Sekar that, on 14.02.2017 at about 11.00 am, the deceased Sekar was riding his Hero Honda two wheeler bearing Registration No.TN-28-AP-8415 on Mohanur Salai at Vagurampatti. While he was nearing N.S.Service Station in Namakkal Town, a Tata Ace bearing Registration No.TN-28-BY-1652 belonging to the first respondent and insured with the second respondent/Insurance Company coming from the opposite direction, driven by its driver in a rash and negligent manner and hit against the said two wheeler. Due to the impact, the deceased sustained grievous injuries. Immediately, he was admitted in Government Hospital, Namakkal, and then shifted to M.M. Private Hospital, Namakkal and thereafter to VIMS Hospital, Salem for better treatment, wherein he succumbed to injuries on 17.02.2017.

4. It is the further case of the claimants that the deceased was a Mason and earning Rs.25,000/- per month. The deceased is the sole bread-winner of the family and due to the sudden demise, the claimants are suffering for their livelihood. Hence, the claimants filed the claim petition for a sum of Rs.40,00,000/- as compensation.

5. The said claim petition was resisted by the Insurance Company by filing a detailed counter statement denying the manner of accident as projected by the claimants in the claim petition. They also denied the age, occupation and income of the deceased. Thus, they sought for dismissal of the claim petition.

6. In order to prove the claim on the side of the claimants, the first claimant examined herself as PW1, besides examining one Muniappan as PW2, and marked Exs.P1 to P15. On the side of the Insurance Company, neither any oral nor any documentary evidence was adduced.

7. The Tribunal after analysing the entire evidence came to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the first respondent's vehicle bearing Registration No.TN-28-BY-1652. By coming to such conclusion, the Tribunal passed an award for a sum of Rs.17,52,700/- and directed the second respondent/Insurance Company to pay the above compensation. The amounts awarded by the Tribunal under various heads are as follows:

S.No.	Heads under which amounts are awarded	Amount in Rs.
1.	Loss of Income	13,16,328
2.	Loss of Estate	15,000



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Annual Income (15,000 x 12) : Rs.1,80,000/-

Multiplier : x 13

Rs.23,40,000/-

Less: 1/4 Deduction towards personal expenses : Rs.5,85,000/-

Loss of Income Rs.17,55,000/-

Thus, the sum of Rs.13,16,328/- awarded by the Tribunal under the head "Loss of Income" is set aside, instead a sum of Rs.17,55,000/- is awarded under such head.

13. Since no amount was awarded by the Tribunal under the head "Loss of Love and Affection" to the children of the deceased, viz., claimants 2 to 4", a sum of Rs.1,20,000/- is awarded under such head by awarding a sum of Rs.40,000/- to each of the claimants 2 to 4.

14. The amounts awarded by the Tribunal under all the other heads are just and fair and hence, they are confirmed. Thus, the total compensation payable to the claimants is re-calculated and tabulated below:

S. No.	Heads under which amounts are awarded	Amount awarded by the Tribunal in Rs.	Amount awarded by this Court in Rs.
1.	Loss of Income	13,16,328	17,55,000
2.	Loss of Estate	15,000	15,000
3.	Funeral Expenses	15,000	15,000
4.	Loss of Consortium	40,000	40,000
5.	Medical Expenses	3,61,395	3,61,395
6.	Transportation Expenses	5,000	5,000
7.	Loss of Love and Affection	-	1,20,000
	Total	17,52,723	23,11,395
		rounded off to 17,52,700	rounded off to 23,11,400



15. Thus, the total compensation of Rs.17,52,700/- awarded by the Tribunal is hereby enhanced to Rs.23,11,400/- (Rupees twenty three lakhs eleven thousand and four hundred only), which shall carry interest at 7.5% from the date of claim petition till the date of payment. The second respondent/Insurance Company is directed to deposit the total compensation awarded by this Court before the Tribunal, after adjusting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants 1 to 3 are permitted to withdraw their respective shares. Insofar as the fourth claimant/minor claimant is concerned, her share shall be deposited by the Tribunal in any Fixed Deposit Scheme in any one of the Nationalised Bank and it shall be renewed periodically till she attains majority and the interest accrued thereon shall be withdrawn by her mother/first appellant, once in three months. The apportionment of shares fixed by the Tribunal to the claimants is hereby confirmed. The appellants/claimants shall pay necessary Court fee, on the enhanced compensation.

16. With the above observations and directions, this Civil Miscellaneous Appeal is partly allowed. No costs.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

pvs
To

1. The Additional District Judge(FAC),
The Additional District Court,
The Motor Accident Claims Tribunal
Namakkal.

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

+2ccs to Mr.C.Thangaraju, Advocate, S.R.No.33444
+1cc to M/s.R.Srividhya, Advocate, S.R.No.33159

C.M.A. No.1513 of 2021

BR[co]
NSK 12/11/2021