



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2021

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CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1504 of 2021

1.Rani
2.Baskar
3.Sujithra
4.Subbulakshmi ...Appellants / Claimants
vs.

1. Kodeeswaran
2. The United India Insurance Company Limited,
Motor Third Party Claim Cell,
No.48, 1st Floor, Chandar Plaza Complex, Arcot Road,
Saligramam,
Chennai - 600 093. ...Respondents / Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 12.12.2019 made in MCOP.No.253 of 2018 on the file of the Motor Accident Claims Tribunal (II Additional District Judge, Poonamallee).

For Appellants : Mr.K.Varadha Kamaraj

For Respondent 2: Mr.D.Bhaskaran

JUDGMENT

This Appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 12.12.2019 passed by the Motor Accident Claims Tribunal (IInd Additional District Judge), Poonamallee in MCOP.No.253 of 2018.

2. The Appellants/claimants are the dependents of the deceased Gopal who died on 04.06.2018 as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent. The cause of the accident has not



been disputed by the respondents as no appeal has been filed by them aggrieved by the findings of the Tribunal under the impugned award.

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3. The only question that arises for consideration is whether the Appellants/claimants are entitled for enhancement of compensation or not.

4. The Tribunal under the impugned award directed the second respondent Insurance company to pay the Appellants a compensation of Rs.13,86,250/- as detailed hereunder:

Heads	Award Amount (Rs.)
Loss of income	13,16,250/- (9000 + 25% = 11250 x 12 = 135000 - $\frac{1}{4}$ =101250 x 13)
Loss of estate	15,000/-
Loss of consortium	40,000/-
Loss of love and affection	15,000/- (5000 x 3)
Total	13,86,250/-

5. The deceased Gopal was aged 49 years at the time of the accident and in the claim petition, the Appellants/claimants have pleaded that the deceased was doing real estate business and earning Rs.30,000/- per month. The accident happened on 04.06.2018. Since no documentary evidence has been produced by the Appellants/claimants in support of their contention that the deceased was earning Rs.30,000/- per month, the Tribunal has fixed the monthly income of the deceased at Rs.9,000/- on notional basis which in the considered view of this Court is low. If the Tribunal has given due consideration to the year of the accident and the avocation of the deceased, it ought to have fixed the notional monthly income of the deceased at a higher sum. After giving due consideration to the same, this Court enhances the notional monthly income of the deceased at Rs.12,000/- instead of Rs.9,000/- erroneously fixed by the Tribunal. The Appellants who claim to be the dependents of the



deceased are the wife, son, daughter and the mother of the deceased. Admittedly, the third Appellant/third claimant who is the daughter of the deceased is married to one Venukumar and she cannot be treated as a dependent of the deceased. However, the Tribunal has erroneously taken the third Appellant/third claimant also to be a dependent and erroneously deducted 1/4th towards personal expenses of the deceased instead of 1/3rd which is correct as the dependents are three in number. Accordingly, the same is modified by this Court to 1/3rd. Insofar as the loss of future prospects awarded by the Tribunal to the Appellant/claimant at 25% is concerned, the same is a correct assessment and accordingly, the same is confirmed by this Court. Since the deceased was aged 49 years at the time of the accident, the Tribunal has adopted 13 multiplier for assessing the pecuniary benefits payable to the Appellants/claimants which is a correct assessment and the same is confirmed by this Court. Therefore, the loss of pecuniary benefits payable to the Appellants/claimants is re-assessed by this court to Rs.15,60,000/- instead of Rs.13,16,250/-.

6. The Tribunal has rightly awarded a compensation of Rs.40,000/- towards loss of consortium to the first Appellant/wife of the deceased which is in accordance with the settled law and therefore, the same is confirmed by this Court.

7. Insofar as the compensation awarded by the Tribunal towards loss of estate at Rs.15,000/- is concerned, the same is also in accordance with the settled law and the same is confirmed by this Court.

8. The Tribunal has awarded Rs.15,000/- as compensation towards loss of love and affection to the Appellants 2 to 4/claimants 2 to 4 which in the considered view of this Court is low and not in accordance with the settled law. Accordingly, this Court enhances the compensation towards loss of love and affection to Rs.1,20,000/- calculated at Rs.40,000/- each for the Appellants 2 to 4 who are the son, daughter and the mother of the deceased Gopal.

9. The Tribunal has erroneously not awarded any compensation towards funeral expenses which the Appellants/claimants are legally entitled to as per the settled law. Accordingly, this Court awards a compensation of Rs.15,000/-



towards funeral expenses to the Appellants/claimants.

10. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced to Rs.17,50,000/- from Rs.13,86,250/- in the following manner:

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this court (Rs.)
Loss of income	13,16,250/- (9000 + 25% = 11250 x 12 = 135000 - ¼ = 101250 x 13)	15,60,000/- (12,000 + 25% = 15000 - 1/3 = 10000 x 12 x 13)
Loss of estate	15,000/-	15,000/-
Loss of consortium	40,000/-	40,000/-
Loss of love and affection	15,000/- (5000 x 3)	1,20,000/-
Funeral expenses	--	15,000/-
Total	13,86,250/-	17,50 000/-

11. In the result, this civil miscellaneous appeal is partly allowed by enhancing the award amount from Rs.13,86,250/- to Rs.17,50,000/-. The second respondent Insurance Company is directed to deposit the enhanced award amount of Rs.17,50,000/-, after deducting the amount already deposited if any, together with interest from the date of claim till the date of deposit and costs to the credit of MCOP.No.253 of 2018 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the respective share of award amount to the bank account of the Appellants/claimants as per the ratio apportioned by the Tribunal through RTGS within a period of one week thereafter. No costs.

Sd/-

Assistant Registrar(CS-IV)

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Sub Assistant Registrar



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1. The II Additional District Judge,
Poonamallee

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.48722

C.M.A.No.1504 of 2021

NR(CO)
SB(25/10/2021)