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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.745 of 2016

1. Shanthi
2. Kala
3. Kumarasamy
4. Gunasundari
5. Senthamarai ... Appellants/Petitioners

versus

1. J. Mohan
2. National Insurance Company Limited,
No.751, Annasalai,
Chennai - 600001 ... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 25.06.2014 and made in M.A.C.T.O.P. N.o.539 of 2013 on the file of the Motor Accident Claims Tribunal, II Judge Small Causes Court, Chennai.

For Appellants : Mr. F. Terry Chella Raja

For Respondent R2 : Mr. S. Arun Kumar

JUDGMENT

(Heard through Video Conference)

This appeal has been filed by the claimants, seeking enhancement of compensation under the impugned award dated 25.06.2014, passed by the Motor Accident Claims Tribunal, II Judge, Small Causes Court, Chennai, in M.C.O.P.No.539 of 2013.

2. The appellants / claimants, unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award, have preferred this appeal, seeking for enhancement.



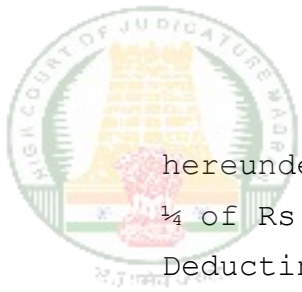
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3. The details of the compensation awarded by the Tribunal under the impugned award to the appellants/claimants are as follows :

Heads	Amount awarded by the Tribunal (Rs.)
Pecuniary Loss	7,02,000/-
Loss of Consortium	50,000/-
Funeral Expenses	15,000/-
Loss of love and affection	40,000/-
Total	8,07,000/-

4. The deceased Kannayiram was a stone cutter, aged 48 years at the time of the accident, which happened on 04.08.2012. The appellants/claimants are his wife, three children and his mother, and they are his dependants. The Tribunal in the impugned award, fixed the notional monthly income of the deceased at Rs. 6,000/-, which, in the considered view of this Court, is low. If the Tribunal had given due consideration to the avocation of the deceased as well as the year of the accident, which happened in the year 2012, the notional monthly income of the deceased would have been much higher. After giving due consideration to the avocation of the deceased, which has not been disputed by the respondents before the Tribunal, and the year of the accident, which happened in the year 2012, this Court fixes notional monthly income of the deceased at Rs.8,000/-, instead of Rs.6,000/-, fixed by the Tribunal.

5. The appellants/claimants are five in number, who are the dependants of the deceased and therefore, the Tribunal has rightly deducted 1/4th towards the personal expenses under the impugned order. However, the Tribunal has failed to award any compensation towards the loss of future prospects to the appellants/claimants, which they are legally entitled to as per the settled law. The deceased was aged 48 years and in accordance to 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)], the appellants/claimants are entitled to 25% towards loss of future prospects. The Tribunal has also correctly applied the multiplier at 13, since the deceased was aged 48 years at the time of the accident. For the forgoing reasons, the loss of dependency is enhanced from Rs.7,02,000/- to 11,70,000/-. The details are drawn



hereunder:

$\frac{1}{4}$ of Rs.8000/- = Rs.2,000/-
Deducting Rs.2,000/- from Rs.8,000/- = Rs.6,000/-
Applying the multiplier, Rs.6,000/- x 13 x 12 =
Rs.9,36,000/-
Adding 25% for future prospects:: Rs.9,36,000/-
+ Rs.2,34,000/-
= Rs.11,70,000/-

6. The Tribunal has awarded a compensation of Rs.15,000/- towards funeral expenses which is in accordance with the settled law and therefore, the same is confirmed. However, the Tribunal has awarded a compensation of Rs.50,000/- towards the loss of consortium and Rs.40,000/- towards the loss of love and affection, which has to be modified by this Court under two different heads namely:

a) loss of consortium to the wife of the deceased, who is the first appellant herein and;

b) loss of filial consortium to the appellants 2 to 5, who are the children and mother of the deceased.

This Court is of the considered view that a sum of Rs.40,000/- would be just and proper compensation towards loss of consortium to the first appellant.

A sum of Rs.1,60,000/- towards the remaining four appellants, towards loss of filial consortium, at Rs.40,000/- each, will be a just compensation, in lieu of Rs.50,000/-, awarded by the Tribunal towards loss of consortium and Rs.40,000/- towards loss of love and affection.

7. For the forgoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.8,07,000/- to Rs.13,70,000/-. The award amount under different heads are as follows:-

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Pecuniary loss	7,02,000/-	11,70,000/-
Funeral expenses	15,000/-	15,000/-



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Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Loss of Consortium	50,000/-	For wife :: 40,000/- For Filial : 1,60,000/-
Loss of Love and affection	40,000/-	
Total	8,07,000/-	13,85,000/-

8. In the result, the appeal filed by the appellants/claimants, stands partly allowed by enhancing the compensation from Rs.8,07,000/- to Rs.13,85,000/-, as indicated above. No costs.

9. The 2nd 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.539 of 2013, on the file of the Motor Accidents Claims Tribunal, II Judge, Small Causes Court, Chennai, within a period of eight 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 through RTGS, within a period of two weeks thereafter. Necessary Court fee, if any, has to be paid by the appellants / claimants before receiving the copy of this Judgment.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

mrn

To

1. The Subordinate Judge,
(Motor Accident Claims Tribunal),
II Judge, Small Causes Court, Chennai



Copy To

The Section Officer,
V.R. Section

High Court of Madras, Chennai - 104.

+1cc to Mr.S. Arun Kumar, Advocate SR.No.32957

+1cc to M/s.Malar, Advocate SR.No.32368

CMA No.745 of 2016

MG (CO)
GMY (29/11/2021)