



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.710 of 2021

1.J.Tamilarasi

2.U.Gayathri

3.G.Madhura Meenachi

..Appellants/Claimants

Vs.

1.A.Sathick

2.Murthy B.V.N.

3.United India Insurance Company Limited,
Having issuing office at Sree Saravana Complex,
No.18/116, Mettupalayam Road,
Thudiyalur, Coimbatore - 34.

..Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 23.01.2021 made in M.C.O.P.No.1337 of 2018 on the file of the Motor Accident Claims Tribunal, III Additional District Court (FAC), Coimbatore.

For Appellants : Mr.S.P.Yuaraj

For R3 : Ms.Janani
for Mr.J.Chandran

J U D G M E N T

The matter is heard through "Video Conferencing/Hybrid mode".

2.This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 23.01.2021 made in M.C.O.P.No.1337 of 2018 on the file of the Motor Accident Claims Tribunal, III Additional District Court (FAC), Coimbatore.



3.The appellants are the claimants in M.C.O.P.No.1337 of 2018 on the file of the Motor Accident Claims Tribunal, III Additional District Court (FAC), Coimbatore. They filed the above said claim petition, claiming a sum of Rs.15,00,000/- as compensation for the death of one G.Dhanalakshmi, who died in the accident that took place on 25.02.2018.

4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the car owned by 2nd respondent and directed the 3rd respondent-Insurance Company to pay a sum of Rs.10,05,000/- as compensation to the appellants

5.Not being satisfied with the amounts awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

6.The learned counsel appearing for the appellants contended that at the time of accident the deceased was a Coolie aged 47 years and was earning a sum of Rs.10,000/- per month. But the Tribunal fixed a meagre sum of Rs.7,500/- per month as notional income of the deceased. The Tribunal ought to have fixed a sum of Rs.10,000/- as monthly income of the deceased as claimed by the appellants and awarded compensation. The Tribunal failed to award any amount towards loss of love and affection and prayed for enhancement of compensation.

7.Per contra, learned counsel appearing for the 3rd respondent contended that the appellants failed to prove the avocation and income of the deceased. In the absence of any material evidence with regard to avocation and income, a sum of Rs.7,500/- per month fixed by the Tribunal as notional income of the deceased is not meagre. The Tribunal considering entire materials on record, has awarded a sum of Rs.10,05,000/- as compensation to the appellants and the same is not meagre. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

8.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 3rd respondent and perused the entire materials on record.

9.It is the case of the appellants that at the time of accident the deceased was a Coolie aged 47 years and was earning a sum of Rs.10,000/- per month. Except oral evidence, the appellants have not filed any document to prove the avocation and income of the deceased. In the absence of any document with regard to avocation and income, the Tribunal considering the age and nature of work done by the deceased, fixed a sum of Rs.7,500/- per month as notional income of the deceased. The



accident is of the year 2018. The cost of living has increased enormously and salary of even unskilled workers has increased substantially. Hence, a sum of Rs.10,000/- per month as claimed by the appellants is fixed as notional income of the deceased. The deceased was aged 47 years at the time of accident as per the claim made in the claim petition. The Tribunal following the judgments of the Hon'ble Apex Court reported in 2009 (2) TNMAC 1 SC Supreme Court, [Sarla Verma & others Vs. Delhi Transport Corporation & another] and 2017 (2) TNMAC 609 (SC), [National Insurance Company Limited Vs. Pranay Sethi and others], rightly applied multiplier '13' and granted 25% enhancement towards future prospects. There are three dependants of the deceased and the Tribunal has rightly deducted 1/3rd towards personal expenses of the deceased. Thus, by fixing Rs.10,000/- per month as notional income of the deceased, the compensation awarded by the Tribunal towards loss of dependency is modified to Rs.13,00,000/- {Rs.12,500/- [Rs.10,000/- + Rs.2,500/- (25% of Rs.10,000/-)] X 12 X 13 X 2/3}. The Tribunal has not awarded any amount towards loss of love and affection. The appellants are the daughters of the deceased and they are entitled to a sum of Rs.40,000/- towards loss of love and affection. This Court is of the considered view that the amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	9,75,000/-	13,00,000/-	Enhanced
2.	Loss of love and affection	-	40,000/-	Granted
3.	Funeral expenses	15,000/-	15,000/-	Confirmed
4.	Loss of estate	15,000/-	15,000/-	Confirmed
	Total	Rs.10,05,000/-	Rs.13,70,000/-	Enhanced by Rs.3,65,000/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,05,000/- is hereby enhanced to Rs.13,70,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 3rd respondent-Insurance Company is directed to deposit the award amount now determined



by this Court, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.1337 of 2018 on the file of the Motor Accident Claims Tribunal, III Additional District Court (FAC), Coimbatore. On such deposit, the appellants are permitted to withdraw their respective share of the award amount now determined by this Court, as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The III Additional District Judge (FAC),
Motor Accident Claims Tribunal,
Coimbatore.

2.The Section Officer,
VR Section,
High Court,
Madras.

+lcc to Mr.J.Chandran, Advocate Sr No.18400
+lcc to M/s.S.P.Yuaraj, Advocate Sr No.18948

C.M.A.No.710 of 2021

SR II (CO)
PR (09/11/2021)