



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

C.M.A.No.2495 of 2021

1. Indira

2. Elumalai

...Appellants/Petitioners

Vs.

1.Palanivel

2.The Manager,

New India Assurance Company Limited,

Motor Third Party Claims Cell (HUB),

No.46, Moore Street,

Chennai - 600 001.

...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 04.01.2017 made in M.C.O.P.No. 200 of 2015 on the file of the Motor Accident Claims Tribunal-I, Tiruvallur (Special District Judge at Tiruvallur).

For Appellants : Mr.U. Chithambaram

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 04.01.2017 made in M.C.O.P.No. 200 of 2015 on the file of the Motor Accident Claims Tribunal-I, Tiruvallur (Special District Judge at Tiruvallur).

2.The Appellants is the claimant in M.C.O.P.No. 200 of 2015 on the file of the Motor Accident Claims Tribunal-I, Tiruvallur (Special District Judge at Tiruvallur). He filed the above said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the death of the deceased in the accident that took place on 02.08.2021.

3.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 mini lorry



4. Not being satisfied with the amounts awarded by the Tribunal, the Appellants has come out with the present appeal seeking enhancement of compensation.

6. Per contra, the learned counsel appearing for the 2nd Respondent/Insurance Company contended that the Tribunal on considering both oral and documentary evidence has awarded compensation under various heads which are on the higher side and the same need not be interfered with. He further submitted that in the absence of any material evidence with regard to avocation and income of the deceased, a sum of Rs.6,000/- per month was rightly fixed as monthly income of the deceased by the Tribunal. He further submitted that the Appellants has not made out any case for enhancement of compensation and prayed for dismissal of the Appeal.

8. Insofar as the monthly income of the deceased is concerned, in this case, P.W.1 deposed that the deceased was a painter and was earning a sum of Rs. 10,000/- per month. Since there is no evidence with respect to the monthly income on the deceased, the Tribunal has awarded a sum of Rs.6,000/- per month, which this Court feels is very low. The accident is of the year 2012. The cost of living has increased enormously and salary of even unskilled workers has increased substantially. Hence, a sum of Rs.7,000/- per month is fixed as notional income of the deceased. Considering the fact that the Appellants/Claimants lost their only son who is 19 years, this Court feels it appropriate to award 40% towards future prospects as per the Judgment of Hon'ble Supreme Court in the case of National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TNMAC 609 (SC), and accordingly 40% is awarded towards future prospects.



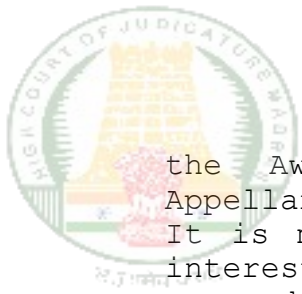
9. Therefore, by taking a sum of Rs.7,000/- per month as notional income of the deceased and by adding 40% towards future prospects and by adopting multiplier '18' as per the Judgment of the Supreme Court, in the case of "Sarala Verma and others Vs. Delhi Transport Corporation and another", reported in 2009 (2) TNMAC 1 (SC) and since the deceased is a Bachelor, deducting 50% towards personal expenses, Loss of dependency is enhanced to Rs.10,58,400/- ([Rs.7,000+40%]x12x18-50%).

10. The Claims Tribunal, by taking note of the fact that the claimants lost their only son, has awarded a sum of Rs.1,00,000/- (Rs.50,000/-each) towards Loss and Affection, which this Court feels is high and there the same stands reduced to Rs.40,000/- (Rs.20,000/-each). Similarly, the compensation awarded towards Funeral is also high and the same is reduced to Rs.15,000/-

11. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, 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	6,48,000	10,58,400	Enhanced
2.	Love and affection	1,00,000	40,000.00	Reduced
3.	Funeral expenses	25,000.0	15,000.00	Reduced
4.	Loss of Estate	Nil	15,000.00	Granted
	Total	Rs.7,73,000/-	Rs.11,28,400/-	Enhanced by Rs.3,55,400/-

12. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,73,000/- is hereby enhanced to Rs.11,28,400/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd 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.200 of 2015 on the file of the Motor Accident Claims Tribunal-I, Tiruvallur (Special District Judge at Tiruvallur). 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. It is made clear that the appellants are entitled to only 4% interest per annum on the amount of Rs.3,55,400/-, the amount now enhanced by this Court for the default period as per the order of this Court dated 27.08.2021 made in C.M.P.No.6556 of 2021 in C.M.A.No.SR.6556 of 2021. The appellants are directed to pay the necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

arr/shk

To

- 1.Motor Accident Claims Tribunal-I,
(Special District Judge at Triuvallur).
Tiruvallur.
- 2.The Section Officer,
VR Section, High Court,
Madras.

C.M.A.No.2495 of 2021

MG (CO)
PR (12/11/2021)