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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1072 of 2020

1.D.Uma

2.D.Veeramani

3.Minor Kumaran @ Gunasekaran

(Minor 3rd petitioner rep by his mother,

1st Petitioner as guardian

Petitioners 1 to 3 are permanently residing at

No.91/44, Old Cuddalore Main Road,

Thiruvathigai, Panruti Taluk,

Now residing at Main Road,

Karamanikuppam and Post, Cuddalore Taluk.

... Appellants

Vs.

1.M.Rajendrakumar

2.United India Insurance Co Ltd,

Third Party Service Hub,

Plot No.35, 36, 37 AR Plaza,

45 Feet Road, Balaji Nagar Extn, Saram,

Puducherry - 605 011.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 07.02.2020 made in M.C.O.P.No.1385 of 2018 on the file of the Motor Accidents Claims Tribunal, (I Additional District & Sessions Judge at Cuddalore).

For Appellant : M/s.Ramya V.Rao

For R2 : Mr.P.Sankaranarayanan

For R1 : No appearance



JUDGMENT

The claimants are the appellant in this appeal. They are aggrieved by the impugned judgment and decree dated 07.02.2020 passed by the Motor Accidents Claims Tribunal, (I Additional District & Sessions Judge at Cuddalore) in M.C.O.P.No.1385 of 2018.

2. By the impugned Judgment and decree, the Tribunal has awarded a sum of Rs.10,94,944/- has compensation as detailed below:-

Loss of Income	Rs. 9,79,944/-
Loss of Consortium	Rs. 40,000/-
Loss of Love and affection 15,000X3	Rs. 45,000/-
Transport Expenses	Rs. 15,000/-
Funeral Expenses	Rs. 15,000/-
Total	Rs. 10,94,944/-

3.The Tribunal has awarded the aforesaid compensation by considering the Notional income of the deceased as Rs.7,000/- per month. Before the Tribunal, the appellants have claimed that the deceased was aged about 45 years and was earning a sum of Rs.20,000/- per month as a Tailor.

4.It is the case of the learned counsel for the appellant submits that the deceased was supporting a large family consisting himself and one of the daughter was a major and the other daughter was on the attaining major. It is submitted that at the time of accident in 2017 it would be reasonable to consider a notional income of the deceased as atleast Rs.15,000/-. It is submitted that the notional income of the Vegetable Vendor was considered as Rs.6,500/- for an accident took place in the year 2008 in Syed Sadiq Vs. United India Insurance Co. Ltd., (2014) 2 SCC 735.

5.It is submitted that the Tailor have a fairly large income. He therefore submits that the Court may fix a notional income of the deceased as Rs.20,000/- per month. Even though the appellants are unable to substantiate the income of the deceased. Alternatively, he prayed that this Court may consider a notional income of the deceased as Rs.15,000/- for awarding



compensation as the accident is of the year 2017.

6. Defending the impugned judgment and decree, the learned counsel for the 2nd respondent/Insurance Company submits that the impugned judgment and decree is well reason and requires no interference.

7. He submits that in absence of any evidence, the Tribunal has come to a fair conclusion, the notional income of the deceased was only Rs.7,000/-. He therefore prays for dismissal of the appeal.

8. Heard the learned counsel for the appellant and the respondent.

9. I have also perused the impugned judgement and decree and the documents are forming the part of the records by the Tribunal. In my view, the Tribunal has considered a meagre income of Rs.7,000 for awarded compensation. The standard of living has increased considerably over a period of time and the value of money has devalued due to inflation. Therefore, I am inclined to consider the notional income of the deceased as Rs.14,000/- per annum for awarding just compensation. Accordingly, the compensation awarded to the appellant is re-computed as follows:-

Notional Income Rs.14,000 plus 25% = 17,500 X 12 X 14 X 1/3 (21,00,000)

Name of the heads	Award by the Tribunal	Award by this Court
Pecuniary Loss	Rs. 9,79,944/-	Rs. 21,00,000/-
Loss of Consortium	Rs. 40,000/-	Rs. 40,000/-
Loss of Love and affection	Rs. 45,000/-	Rs. 80,000/-
Loss of Estate	-----	Rs. 15,000/-
Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
Transportation	Rs. 15,000/-	Rs. 5,000/-
Total	Rs.10,94,944/-	Rs. 22,55,000/-

10. Though the owner of the insured vehicle has not appeared before this Court or before the lower Court/Tribunal, liberty to the 2nd respondent/Insurance Company to pay and



recover the amount from the 1st respondent/owner of the vehicle cannot be ordered as prayed as the evidence on record indicates that the driver of the insured bus possessed a valid driving license.

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11.The 2nd respondent/Insurance Company, is directed to deposit the amount of compensation together with interest at 7.5% per annum from the date of filing of the claim petition till the date of such deposit together with cost within a period of six weeks from the date of receipt of the copy of this Judgment.

12.On such deposit, the 1st and 2nd appellants/claimants are entitled to withdraw their amount together with interest as directed by the Tribunal, by filing suitable application before Tribunal. Since the 3rd appellant/3rd claimant is stated to be minor at the time of filing of the claim petition, his share shall be deposited in an interest bearing account and the interest shall be allowed to be withdrawn by his father for the benefit of the minor. On attaining the age of majority, the appellant/claimant may also file appropriate application before the Tribunal for withdrawing his share of compensation.

13.This Civil Miscellaneous Appeal stands Partly Allowed with the above observations. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1.The Motor Accidents Claims Tribunal,
(I Additional District & Sessions Judge at Cuddalore).

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

+1cc to Mr.P.Sankaranarayanan, Advocate, S.R.No.22761

+1cc to M/s.A.N.Viswanatha Rao, Advocate, S.R.No.22679

C.M.A.No.1072 of 2020

RLD(CO)

SB(10/11/2021)