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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2021

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMAL

C.M.A. NO. 4191 OF 2019

Amuthavali

.. Appellant/Claimant

Vs.

1.Anish

2.K.Jaishankar

3.The New India Insurance Company Limited,  
Branch Office : Spencer Towers  
Third Floor,  
770-A, Anna Salai, Chennai

.. Respondents/Respondents

(R1 & R2 set ex parte in trial court)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 23.10.2017 made in M.C.O.P. No. 400 of 2015 on the file of Motor Accident Claims Tribunal, Sub Court, Bavani.

For Appellant : Mr.M.Nandhakumar

R1 & R2 : Ex parte before Tribunal

For R3 : Ms.R.Sreevidhya

#### J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant seeking enhancement of compensation granted by the Tribunal in the award dated 23.10.2017 made in M.C.O.P. No. 400 of 2015 on the file of Motor Accident Claims Tribunal, Sub Court, Bavani.

2.The appellant is claimant in M.C.O.P. No. 400 of 2015 on the file of Motor Accident Claims Tribunal, Sub Court, Bavani. The appellant filed the said claim petition claiming a sum of Rs.30,35,000/- as compensation for the death of one Sibi



Chakravarthy, who died in the accident that took place on 24.02.2014.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the 1<sup>st</sup> respondent/driver of the Swift Car belonging to the 2nd respondent and directed the respondents 1 & 2 as well as the 3rd respondent/Insurance Company being insurer of the said car to pay jointly and severally a sum of Rs.11,55,000/- as compensation to the appellant.

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

5.The learned counsel appearing for the appellant contended that at the time of accident the deceased was studying 4th year in S.R.M. Engineering College, Chennai and the Tribunal has fixed a meager sum of Rs.10,000/- per month as notional income of the deceased. It is contended that the deceased was aged 21 years at the time of the accident, and no compensation was awarded by the Tribunal towards future prospects. It is further contended that the Tribunal has not awarded any amount towards loss of estate and the amounts awarded by the Tribunal under different heads are meager and prayed for enhancement of compensation.

6.Per contra, the learned counsel appearing for the 3<sup>rd</sup> respondents/Insurance Company contended that the Tribunal after considering all the records in proper perspective, rightly awarded just compensation. The appellant has not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the 3<sup>rd</sup> respondents/Insurance Company and perused all the materials available on record.

8.It is the contention of the appellant that the deceased was studying 4th year in S.R.M. Engineering College, Chennai. The Tribunal has fixed notional income of the deceased at Rs.10,000/- per month and the same is meager. The accident is of the year 2014. A reasonable sum of Rs.15,000/- per month can be fixed as notional income of the deceased. The deceased was aged 21 years at the time of accident. The Tribunal has not granted any compensation towards future prospects. As per judgment of the Hon'ble Apex Court reported in National Insurance Company v. Pranay Sethi reported in 2017(2)TNMAC 609 (SC), the appellant is entitled to 40% enhancement towards future prospects.



Considering the age of the deceased, the Tribunal has rightly applied multiplier '18'. The deceased died as a bachelor. Hence after deducting 1/2 towards personal expenses of the deceased, the amount awarded by the Tribunal towards loss of income is modified to Rs.22,68,000/- [(Rs.15,000 + 6,000 (Rs.15,000/- x 40%) x 12 x 18 x 1/2)]. The amounts awarded by the Tribunal towards funeral expenses and transport expenses are excessive and the same are hereby reduced to Rs.15,000/- each respectively. The amount awarded by the Tribunal towards loss of love and affection is meagre and the same is hereby enhanced to Rs.40,000/-. The Tribunal has not awarded any amount towards loss of estate. A sum of Rs.15,000/- is granted towards loss of estate. 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         | 10,80,000                       | 22,68,000                         | Enhanced                               |
| 2.   | Funeral expenses           | 25,000                          | 15,000                            | Reduced                                |
| 3.   | Loss of love and affection | 25,000                          | 40,000                            | Enhanced                               |
| 4.   | Transport Expenses         | 25,000                          | 15,000                            | Reduced                                |
| 5.   | Loss of Estate             | -                               | 15,000                            | Granted                                |
|      | Total                      | Rs.11,55,000/-                  | Rs.23,53,000/-                    | Enhanced by Rs.11,98,000 /-            |

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.11,55,000/- is hereby enhanced to Rs.23,53,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellant is directed to pay necessary Court fee, if any, on the enhanced compensation. The respondents are directed to deposit the enhanced award amount now determined by this Court along with interest and costs, jointly and severally, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant/claimant



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is permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn. No costs.

Sd/-  
Deputy Registrar(TNMCC)

// True Copy //

Sub Assistant Registrar

mtl

To

1. The Sub Judge,  
The Motor Accident Claims Tribunal,  
Bavani.
2. The Section Officer,  
V.R.Section,  
High Court, Chennai.

+1cc to Mr.M.Nandhakumar, Advocate, S.R.No.29969

+1cc to Ms.R.Sreevidhya, Advocate, S.R.No.29689

C.M.A. No. 4191 of 2019

SR-II(CO)  
RLP(28/10/2021)