



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

C.M.A.No.1691 of 2021

1.V.Balu

2.B.Mohanraj

3.Minor Gopika

(rep. by her father and next friend V.Balu)

... Appellants/Petitioners

vs.

1.V.Sekar

(remained exparte before the Tribunal
hence his presence may be dispensed with)

2.The National Insurance Company Limited,
No.661, First Floor, Trunk Road,
Poonamalee,
Chennai - 600 056.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 18.02.2020 made in M.A.C.T.O.P.No.325 of 2018 on the file of the Motor Accidents Claims Tribunal, III Additional District Judge, Thiruvallur at Poonamalle.

For Appellant : Mr.F.Terry Chella Raja

For 1st Respondent : Exparte

For 2nd Respondent : Mrs.R.Sreevidhya

JUDGMENT

Aggrieved by the judgment and decree dated 18.02.2020 passed by the Motor Accidents Claims Tribunal, III Additional District Judge, Thiruvallur at Poonamalle in M.C.O.P.No.325 of 2018, legal heirs of the deceased have come up with this Civil Miscellaneous Appeal, seeking enhancement of compensation.



2.Appellants/Claimants are the husband and children of the deceased Meena. According to the Claimants, on 31.08.2018, when the deceased Meena was travelling in a Car bearing Registration No.TN 22 BT 3336, near Tharapakkam Maduravoyal Milestone 9 KM, the driver of the Car in which the deceased Meena was travelling, drove the vehicle in a rash and negligent manner and hit the center-median wall, due to which, she sustained grievous injuries on her head and died on the way to Hospital. Before the Tribunal, dependents of the deceased Meena filed a Claim Petition, claiming a sum of Rs.18,00,000/- as compensation.

3.Before the Tribunal, on the side of the Claimants, P.Ws.1 and 2 were examined and Exs.P1 to P9 were marked. On the side of the Respondents, no witness was examined and no documents were marked.

4.The Tribunal, on a consideration of the entire oral and documentary evidence, awarded a sum of Rs.13,89,888/- as compensation to the Claimants, under the following heads:

Head	Amount (Rs.)
Loss of dependency	11,19,888.00
Loss of love and affection	2,00,000.00
Loss of estate	15,000.00
Funeral expenses	15,000.00
Loss of consortium	40,000.00
Total	13,89,888.00

5.Learned counsel for the Appellants/Claimants submitted that, at the time of accident, the deceased was doing Tailoring work and was earning a sum of Rs.1,000/- per day. It is his contention that, the Tribunal without considering the age, occupation and income of the deceased, has awarded less compensation under the head, 'loss of dependency' and that, it ought to have awarded more compensation under the heads, 'loss of love and affection', 'loss of consortium', 'loss of estate' and 'funeral expenses'. He also contended that, the Tribunal ought to have awarded compensation under the heads, 'loss of expectation of life', 'transportation and mental agony'.

6.According to the Appellants/Claimants, the deceased Meena was doing Tailoring at the time of accident and was earning a sum of Rs.1,000/- per day. The Tribunal has fixed the monthly income of the deceased only at Rs.6666/-, which is



certainly on the lower side. Hence, this Court feels it appropriate to fix a sum of Rs.12,000/- as the monthly income of the deceased. After deducting one-third from the said amount towards the personal expenses of the deceased, the compensation awarded by the Tribunal under the head 'loss of dependency' is enhanced to a sum of Rs.13,44,000/- (Rs.8,000/- x 14 x 12 = 13,44,000).

7.Coming to the head, 'loss of love and affection', this Court is of the view that, a sum of Rs.2,00,000/- awarded under the said head is certainly on the higher side. Hence, the same is reduced to a sum of Rs.80,000/-, i.e. the children of the deceased are each entitled to a sum of Rs.40,000/- as compensation towards 'loss of love and affection'.

8.As far as compensation awarded under the heads 'loss of consortium', 'loss of estate' and 'funeral expenses', this Court finds no reason to interfere with the same, as the same are just and reasonable.

9.In fine, compensation awarded by the Tribunal is modified as tabulated below:

Head	Amount awarded by the Tribunal (Rs.)	Amount modified by this Court (Rs.)
Loss of dependency	11,19,888.00	13,44,000.00
Loss of love and affection	2,00,000.00	80,000.00
Loss of estate	15,000.00	15,000.00
Funeral expenses	15,000.00	15,000.00
Loss of consortium	40,000.00	40,000.00
Total	13,89,888.00	14,94,000.00

10.In fine, compensation of a sum of Rs.13,89,888/- awarded by the Tribunal is enhanced to a sum of Rs.14,94,000/- (Rupees Fourteen Lakhs Ninety Four Thousand only). The 2nd Respondent/Insurance Company is directed to deposit the modified Award amount along with interest at 7.5% per annum from the date of filing the Claim Petition till the date of deposit, less the amount already deposited, if any, to the credit of M.C.O.P.No.325 of 2018 on the file of the Motor Accidents Claims Tribunal (III Additional District Court), Tiruvallur at Poonamallee, within a period of six weeks from the date of



receipt of a copy of this judgment.

11. The modified Award amount shall be disbursed to the Appellants/Claimants as per the ratio apportioned by the Tribunal. On deposit of the modified Award amount, the Tribunal is directed to transfer the share of compensation of the 1st and 2nd Appellants/1st and 2nd Claimants directly to their respective Bank Accounts through RTGS, within a period of two weeks. The share of compensation of the minor 3rd Appellant/3rd Claimant shall be deposited in any one of the Nationalized Banks initially for a period of one year, renewable thereafter periodically till she attains majority and the interest accrued thereon is permitted to be withdrawn by the 1st Appellant, father of the minor 3rd Appellant, once in three months.

The Civil Miscellaneous Appeal is ordered accordingly. No costs.

Sd/-
Assistant Registrar(CS-I)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The III Additional District Judge,
The Motor Accidents Claims Tribunal
Thiruvallur at Poonamalle.

2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai 600 104.

+1cc to Mr.M.Malar, Advocate SR.No.39575

+1cc to Mr.R.Sreevidhya, Advocate SR.No.40088

C.M.A. No.1691 of 2021

EV(CO)
GN(28/12/2021)