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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.2088 OF 2021

1. Kavitha
2. Rajendra
3. Deeksha

.. Appellants/Petitioners

.Vs.

1. Kuppusamy
2. United India Insurance Company Limited,
119, Silvestra Orcade East Park Road,
11th Cross, Malleswaram, Bangalore.

.. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to set aside the fair and decreetal order dated 14.12.2020, made in M.C.O.P.No.68 of 2019, on the file of the Motor Accidents Claims Tribunal, Special District Court, Dharmapuri.

For Appellants : Mr.T.L.Thirumalaisamy

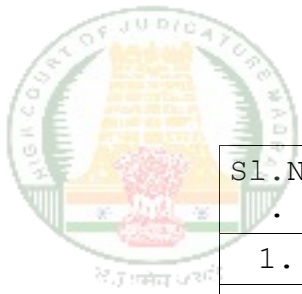
For Respondent 2: Mr.V.Murali
for Mr.J.Chandran

J U D G M E N T

(The case has been heard through video conference)

This appeal has been filed by the claimants seeking enhancement of compensation under the impugned Award dated 14.12.2020, passed by the Motor Accidents Claims Tribunal, Special District Court, Dharmapuri in M.C.O.P.No.68 of 2019.

2. The appellants/claimants not satisfied with the quantum of compensation awarded by the Tribunal have preferred this appeal seeking for enhancement. The details of the compensation awarded by the Tribunal under the impugned Award are as follows:



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Sl.No	Heads	Amount in Rs.
1.	Loss of dependency	9,72,000
2.	Loss of filial consortium (claimants 1 & 2)	80,000
3.	Loss of love and affection (claimant 3)	40,000
4.	Loss of estate	15,000
5.	Funeral expenses	15,000
	Total	11,22,000

3. The deceased was a student aged 19 years at the time of the accident, which happened on 13.10.2018. The cause of the accident has not been disputed by the respondents. The only question that arises for consideration is whether the appellants/claimants are entitled for enhancement.

4. The Tribunal has fixed the notional monthly income of the deceased at Rs.6,000/-. Since the accident happened in the year 2018, this Court is of the considered view that the notional monthly income fixed by the Tribunal at Rs.6,000/- is low and it has to be enhanced to Rs.9,000/-. Accordingly, this Court enhance the notional monthly income of the deceased at Rs.9,000/-. The Tribunal has awarded compensation towards loss of future prospectus at 40% based on the age of the deceased, which is a correct assessment and the same is confirmed by this Court. The Tribunal has adopted multiplier of 18, since the deceased was aged 19 years at the time of the accident, which is correct assessment and the same is confirmed by this Court. Since the Tribunal has also rightly adopted 15% towards personal expenses of the deceased, as the deceased was a bachelor at the time of the accident, which is a correct deduction. Since the notional monthly income of the deceased has been enhanced by this Court to Rs.9,000/-, the loss of dependency is enhanced by this Court from 9,72,000/- to Rs.13,60,800/-.

5. The Tribunal has awarded compensation of Rs.80,000/- to the parents of the deceased at the rate of Rs.40,000/- each, which is a correct assessment and the same is confirmed by this Court. The Tribunal has awarded compensation of Rs.40,000/- to the sister of the deceased, which is on the higher side and therefore this Court reduces the compensation towards loss of love and affection to the sister of the deceased namely third appellant / third claimant to Rs.20,000/- instead of Rs.40,000/- erroneously fixed by the Tribunal. In so far as compensation



awarded by the Tribunal towards loss of estate at Rs.15,000/- and towards funeral expenses at Rs.15,000/- are concerned, the same are just compensation and does not call for any interference by this Court and the same is confirmed by this Court.

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6. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned Award is enhanced to Rs.14,90,800/- instead of Rs.11,22,000/- awarded by the Tribunal. Since the owner of the insured vehicle which caused the accident does not possess a valid permit, the Tribunal has directed the second respondent / insurance company to pay the compensation and recover the same from the first respondent / insured and the same is confirmed by this Court. The details of the compensation now awarded by this Court is detailed hereunder:

Sl No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or set aside or granted or reduced (Rs.)
1.	Loss of dependency	9,72,000	13,60,800	Enhanced
2.	Loss of filial consortium (claimants 1 & 2)	80,000	80,000	Confirmed
3.	Loss of love and affection (claimant 3)	40,000	20,000	Reduced
4.	Loss of estate	15,000	15,000	Confirmed
5.	Funeral expenses	15,000	15,000	Confirmed
	Total	11,22,000	14,90,800	Enhanced by Rs.3,68,800/-

7. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.11,22,000/- awarded by the Tribunal is hereby enhanced to Rs.14,90,800/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The second respondent / insurance company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.68 of 2019, on the file of the Motor Accidents Claims Tribunal, Special District Court, Dharmapuri. On



such deposit, the appellants/claimants are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn by making necessary applications before the Tribunal. The appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced compensation now determined by this Court. No costs.

Sd/-
Assistant Registrar (CS II)

//True Copy//

Sub Assistant Registrar

kk

To

1. The Motor Accidents Claims Tribunal,
Special District Court, Dharmapuri.

Copy To

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

+1cc to Mr.J.Chandran, Advocate, S.R.No.53100

+1cc to Mr.T.L.Thirumalaisamy, Advocate, S.R.No.53624

C.M.A.No.2088 of 2021

KV(CO)
CS/23/11/2021