



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.2107 Of 2021

1. M.Kamal Arasu
 2. Mallika
 3. S.Arumugam
- ... Appellants/Petitioners

Vs.

1. M. Naraynan
 2. The Divisional Manager,
National Insurance Company Ltd.,
DO.110 J.N. Street,
Puducherry 605 001.
- ... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 21.12.2020 made in M.C.O.P.No. 1374 of 2019 on the file of the Motor Accident Claims Tribunal/ (Principal District Judge), Cuddalore.

For Appellants : Ms. Ramya V. Rao

For Respondents : Mr. D. Bhaskaran for R2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 21.12.2020 made in M.C.O.P.No. 1374 of 2019 on the file of the Motor Accident Claims Tribunal/ (Principal District Judge), Cuddalore.

2.The Appellants are the claimants in M.C.O.P.No. 1374 of 2019 on the file of the Motor Accident Claims Tribunal/ (Principal District Judge), Cuddalore. They filed the above said claim petition, claiming a sum of Rs.30,00,000/- as compensation for the death of the deceased in the accident that took place on 11.07.2019.



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 bus belonging to the 1st respondent and directed the Respondents 1 & 2 to pay a sum of Rs.15,24,000/- as compensation to the Appellants.

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

5.The learned counsel appearing for the Appellants contended that though the Claims Tribunal has rightly fixed the negligence on the part of the driver of the bus, erred in quantifying the amount to the Claimants. He further submitted that the compensation awarded towards other heads by the Tribunal are also meagre and the same needs to be enhanced.

6.Per contra, Mr.D.Bhaskaran, learned counsel appearing for the 2nd Respondent/Insurance Company contended that in the absence of any material evidence with regard to avocation and income, a sum of Rs.8,000/- per month fixed by the Tribunal as notional income of the deceased is excessive. He further submitted that the total compensation awarded by the Tribunal under various heads is highly excessive and the Appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7.Heard the learned counsel appearing for the Appellants as well as the learned counsel appearing for the 2nd respondent and perused the entire materials on record.

8.Insofar as the monthly income of the deceased is concerned, P.W.1 deposed that the deceased was a fisherman, at the time of accident and was earning a sum of Rs.25,000/- per month and no proof has been marked to that effect. Therefore, the Claims Tribunal has fixed the notional income of the deceased at Rs.8,000/- per month. Considering the age of the deceased and the prevailing cost of living as on date, this Court feels that monthly income of the deceased can be enhanced. Accordingly, the monthly income is enhanced to Rs.12,000/- per month. As per the Judgment of the Hon'ble Supreme Court, in the case of "National Insurance Company Ltd., Vs. Pranay Sethi and other", reported in, 2017 (2) TN MAC 609 (SC), by adding 40% towards future prospects, by adopting multiplier 16 and deducting 1/3rd towards personal expenses, the compensation awarded towards Pecuniary loss is enhanced to Rs.21,50,400/- (Rs.12,000 + 40% - 1/3 x 12 x 16).



9. Taking note of the fact that the First Respondent lost her husband in the said accident, the Tribunal has rightly fixed the compensation towards Loss of Consortium at Rs.40,000/- which is reasonable and the same does not warrant interference. Further, this Court feels that the compensation awarded towards Love is Affection is very low and therefore the same is enhanced to Rs.80,000/- (Rs.40,000/- each) to the Appellants 2 and 3.

10. The Claims Tribunal has rightly awarded the compensation towards funeral expenses and Loss of estate at Rs.15,000/- towards each head and the same need not be interfered with.

11. 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 pecuniary benefits	14,33,600/-	21,50,400/-	Enhanced
2.	Loss of Consortium	40,000/-	40,000/-	Confirmed
3.	Loss of love and affection	20,000/-	80,000/-	Enhanced
4.	Funeral expenses	15,000/-	15,000/-	Confirmed
5.	Loss of Estate	15,000/-	15,000/-	Confirmed
	TOTAL ROUNDED OFF	Rs.15,23,600/- Rs.15,24,000/-	Rs.23,00,400/- Rs.23,00,000/-	Enhanced by Rs.7,76,000/-

12. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs. 15,24,000/- is hereby enhanced to Rs.23,00,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. Out of the enhanced compensation, the First Appellant is entitled to a sum of Rs.15,00,000/- and the Second Appellant is entitled to a sum of Rs.5,00,000/- and the Third Appellant is entitled to a sum of Rs.3,00,000/-. The Respondents 1 and 2 are directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.1374 of 2019 on the file



of the Motor Accident Claims Tribunal/ (Principal District Judge), Cuddalore. On such deposit being made, the Tribunal is directed to transfer the Award amount as apportioned above, directly to the Bank account of the Appellants/Claimants through RTGS, within a period of two weeks. The Appellants/Claimants shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

arr/shk

To

The Principal District Judge,
Motor Accident Claims Tribunal,
Cuddalore.

+2cc to Mrs.Ramya V.Rao, Advocate Sr.43587

C.M.A.No.2107 of 2021

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srg 04/02/2022