

**IN THE HIGH COURT OF JUDICATURE AT MADRAS****DATED: 09.07.2021****CORAM:****THE HONOURABLE MRS. JUSTICE S. KANNAMMAL****C.M.A.No.1339 of 2020**

1.B.Vinotha

2.V.Vasanth

3.P.Venkatasamy

...Appellants

Vs.

1.T.Dhanusu

2.Shriram General Insurance Company Limited,
1st Floor, Plot No.5, Ramachandra Street,
Saravana Nagar, Seevaram,
Perungudi, Chennai-600 096.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree in M.C.O.P.No. 2639 of 2017 dated 17.07.2020 on the file of the Motor Accident Claims Tribunal, [I-Additional District and Sessions Judge], Cuddalore.

For Appellants : Mr.Ramya V. Rao

For Respondents : Mr.T.Dhanusu (for R1)
: Mrs.C.Bhuvanasundari (for R2)



JUDGMENT

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This Civil Miscellaneous Appeal has been filed against the award dated 17.07.2020, passed by the Motor Accidents Claims Tribunal, I-Additional District and Sessions Judge, Cuddalore, in MCOP No.2639 of 2017.

2. By the impugned award, the Tribunal has awarded a sum of Rs.15,90,448/- as compensation together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit, to the first appellant for the death of her husband Mr.V.Baskaran and to the 2nd and 3rd appellants, the parents of the deceased.

3.This is the case of fatal accident. The case of the claimants is that on 09.06.2017 at 19.00 hours, the deceased Mr.V.Baskaran was riding his motorcycle bearing Reg.No.TN-31-BS-0684 towards Chennai direction at a moderate speed, keeping extreme left of Arasoor Cross Road. At that time, a Tata Indica Car bearing Reg.No.TN-32-H-9293 belonging to the first respondent came from behind in a rash and negligent manner and hit against the deceased motorcycle. In the accident, the deceased was thrown away and sustained fatal injuries. Immediately, he was taken to the



Villupuram Government Medical College, where he was declared dead.

The wife and the parents of the deceased filed the claim petition before the Tribunal. Though they claimed Rs.50,00,000/- as compensation, the Tribunal has awarded Rs.15,90,448/- together with interest at 7.5% per annum, under the following heads:-

<i>Heads</i>	<i>Rs.</i>
Loss of income $11350+2837=14187-4729(1/3)=9458 \times 12 \times 13$	14,75,448
Loss of Consortium	40,000
Loss of Love and Affection 15000×3	45,000
Transport Expenses	15,000
Funeral Expenses	15,000
Total	15,90,448

4.The learned counsel appearing for the appellants would contend that since the amount awarded by the Tribunal is meager in all the heads, the claimants are entitled for higher compensation. He would further contend that at the time of accident, the deceased was 47 years and hale and healthy. He was the only sole breadwinner of his family. He would further contend that the deceased was working in Chennai Silks, Villupuram District and earned Rs.17,000/- per month. Besides, he was



also earned Rs.45,000/- per month by doing agricultural work and dealership of Fertilizer and paddy, whereas, the Tribunal without considering the income of the deceased, fixed a sum of Rs.11,350/- per month as notional income. He would further contend that the amount awarded under the head of loss of love and affection is very meager. Hence, the appellants seek for enhancement of compensation.

5.Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company submitted that the impugned Judgment and Decree awarding the aforesaid compensation is well reasoned and it requires no interference and therefore, this Civil Miscellaneous Appeal is liable to be dismissed.

6.This Court carefully considered the rival submissions of the learned counsel for the appellants/claimants and the learned counsel appearing for the second respondent/Insurance Company and perused the materials available on record.

7.It is not in dispute that the deceased died in an road accident that had taken place on 09.06.2017. The finding of the Tribunal that the



accident occurred due to the negligence of the driver of the Tata Indica Car has become final and hence, it need not be adverted to in the appeal.

8. According to the appellants/claimants, the deceased was earning a sum of Rs.17,000/- per month by working in Chennai Silks. Apart from that, he was also earned Rs.45,000/- by doing agricultural work and dealership of Fertilizer and paddy. However, the Tribunal has fixed a notional monthly income of the deceased as Rs.11,350/-, which is very meagre. Though the learned counsel for the appellants contended that the income of the deceased has been proved through Exs.P.14, 18 and 19, this Court fixed the income of the deceased as Rs.15,000/- per month. Further, as contended by the learned counsel for the appellants, the Tribunal has not awarded any amount under the head of loss of estate and the amount awarded under the head of loss of love and affection is very meagre. Therefore, as per the decision in the case of ***National Insurance Company Limited v. Pranay Sethi and Others*** reported in ***2017 (2) TNMAC 609 (SC)***, this Court awards Rs.80,000/- towards loss of love and affection and Rs.15,000/- towards loss of estate. The amounts awarded under the other heads and multiplier fixed by the Tribunal are unaltered.

The rate of interest fixed by the Tribunal is unaltered. Hence, the



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compensation awarded by the Tribunal to the appellants is re-quantified as follows:-

<i>Heads</i>	<i>Rs.</i>
Loss of income $15000+3750=18750-6250(1/3)=12500 \times 12 \times 13$	19,50,000
Loss of Consortium	40,000
Loss of Love and Affection	80,000
Transport Expenses	15,000
Funeral Expenses	15,000
Loss of Estate	15,000
Total	21,15,000

9. In such view of the matter, this Civil Miscellaneous Appeal is partly allowed. The second respondent/Insurance Company is directed to deposit the modified award amount with accrued 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 order.

10. It is reported that pending this appeal, the third appellant Venkatasamy died on 03.12.2020. To substantiate the same, the death certificate of third appellant Venkatasamy was produced before this Court along with a memo. In the memo, it was stated by the counsel for the



appellants that the compensation amount payable to the third appellant shall be paid to the first appellant as she is a young widow and not remarried till date. It is further stated that the second appellant is aged 70 years now and therefore also apportioning the compensation amount payable to the third appellant (since deceased) to the first appellant will be reasonable. The said submission of the learned counsel for the appellant is recorded. The memo dated 05.07.2021 is taken on record.

11. In the light of the above, this Court directs that out of the compensation amount of Rs.21,15,000/-, $\frac{2}{3}$ rd of the compensation amount shall be paid to the first appellant and the remaining $\frac{1}{3}$ rd amount shall be paid to the second appellant. The first and second appellants are permitted to withdraw the compensation amount, as determined in this appeal, as aforesaid together with proportionate interest and costs. No costs.

09.07.2021

Index : Yes / No
Speaking Order : Yes/ No
msm



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To

1. The Motor Accident Claims Tribunal,
[I-Additional District and Sessions Judge],
Cuddalore.
2. The Section Officer, V.R.Section,
High Court of Madras, Chennai-600 104.



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S. KANNAMMAL. J

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