



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.10.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No. 1993 of 2021

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1. M. Thilagavathi
2. Minor Swetha
Rep. by mother guardian, NF,
M. Thilagavathi, the 1st appellant herein
3. Angamma ... Appellants/Petitioners
Vs.
1. M. Santhi
2. The Divisional Manager,
The New India Assurance Co. Ltd.,
DO III Floor, No.179, JN Street,
Puducherry - 605001. ... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed in M.C.O.P. No.4384 of 2018 dated 11.12.2020 on the file of the Motor Accidents Claims Tribunal, I Additional District and Sessions Judge, Cuddalore.

For Appellants : Ms. Ramya V Rao

For Respondents : Mr. R. Sivakumar for R2

JUDGMENT

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned award dated 11.12.2020 passed by the I Additional District and Sessions Court, Motor Accident Claims Tribunal, Cuddalore, in MCOP No.4384 of 2018.

2. The appellants/claimants unsatisfied with the quantum of compensation awarded by the Tribunal have preferred this appeal seeking for enhancement.

3. The details of compensation awarded by the Tribunal are as follows:



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Heads	Amount awarded by the Tribunal (Rs.)
Loss of income	16,12,800
Loss of consortium	40,000
Loss of love and affection	45,000
Transport Expenses	15,000
Funeral expenses	15,000
Total	17,27,800

4. Heard Ms.Ramya V. Rao, learned counsel for the appellants and Mr.R. Sivakumar, learned counsel for the 2nd respondent / Insurance Company.

5. The deceased was a Mason by profession at the time of the accident. In the claim petition, the appellants / claimants have pleaded that the deceased was earning Rs.50,000/-p.m. However, the Tribunal has fixed the notional monthly income of the deceased at Rs.9,000/-, which in the considered view of this Court is low. Even though the appellants / claimants have not filed any documentary evidence to prove the income of the deceased, the fixation of the notional monthly income at Rs.9,000/- is low as the accident happened in the year 2018. After giving due consideration to the year of the accident and the avocation of the deceased, this Court enhances the notional monthly income of the deceased to Rs.12,000/- instead of Rs.9,000/- erroneously fixed by the Tribunal. The Tribunal has awarded a compensation of Rs.16,12,800/- towards loss of income by adopting the correct multiplier of 16 and by correctly awarding future prospects at 40% to the appellants / claimants as the deceased was aged 32 years at the time of the accident. Since the notional monthly income of the deceased is enhanced by this Court to Rs.12,000/-, the compensation towards loss of income to the appellants / claimants is enhanced to Rs.21,50,400/- by this Court instead of Rs.16,12,800/- erroneously fixed by the Tribunal.

6. With regard to the compensation awarded by the Tribunal under other heads viz., towards loss of consortium at Rs.40,000/-; towards loss of love and affection at Rs.45,000/-; towards Transport expenses at Rs.15,000/- and towards funeral expenses at Rs.15,000/- are concerned the said compensation cannot be considered to be unjust, as alleged by the appellant / claimants and therefore, the same is confirmed by this Court.



ab/vsi2

To

1. The I Additional District and Sessions Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

Copy To

The Section Officer,
V.R. Section,
High Court, Madras.

+2cc to Mr.Ramya V.Rao, Advocate SR.No.53325
+1cc to Mr.R.Sivakumar, Advocate SR.No.52989

CMA.No.1993 of 2021

NR(CO)
GN(26/11/2021)