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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2023 of 2021

1. Rajendran

2. Manimegalai

...Appellants/Petitioners

vs.

1. The Correspondent

Annai Velankanni Polytechnic College,
No.23, Anguchettipalayam, Panruti Taluk,
Cuddalore District.

2. The Chief Manager,

The Oriental Insurance Company Ltd.,
Third Party Claim Hub,
New No.216, Old No.115, Prakasam Salai,
Broadway, Chennai - 600 108.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P. No.218 of 2019 dated 24.03.2021 on the file of the Motor Accident Claims Tribunal / Subordinate Judge's Court, Panruti.

For Appellants : Ms. Ramya V. Rao

For Respondents : Mr. D. Bhaskaran for R2
R1 Not Served

JUDGMENT

This Appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 24.03.2021 passed by the Motor Accident Claims Tribunal (Subordinate Judge's Court, Panruti) in M.C.O.P. No.218 of 2019.

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



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3. The Tribunal under the impugned award directed the second respondent Insurance Company to pay a compensation of Rs.13,14,600/- to the Appellants / claimants as detailed below:

Heads	Award Amount (Rs.)
Loss of dependency	12,09,600/- (8000 + 40% = 11200 x 12 x 18 = 2419200 - 50%)
Loss of love and affection	80,000/- (40,000 x 2)
Funeral expenses	15,000/-
Transport Expenses	10,000/-
Total	13,14,600/-

4. The Appellants are the parents of the deceased Iyyappan who died on 06.09.2018 as a result of an accident caused by a vehicle owned by the 1st respondent and insured with the 2nd respondent. The deceased was aged 19 years at the time of the accident and in the claim petition, the Appellants/ claimants have pleaded that he was a Mason, earning Rs.20,000/- p.m.

5. The Tribunal under the impugned award has assessed the notional monthly income of the deceased at Rs.8,000/-. This Court is of the considered view that the Tribunal has not taken into consideration the year of the accident as well as the avocation of the deceased while assessing the notional monthly income. This Court after giving due consideration to the avocation and the year of the accident which happened in the year 2018 reassesses the notional monthly income of the deceased at Rs.11,000/- instead of Rs.8,000/- erroneously fixed by the Tribunal.

6. The Tribunal has rightly awarded the loss of future prospects at 40%, considering the age and avocation of the deceased and the same is confirmed by this Court. The Tribunal also has rightly deducted 50% towards the personal expenses of the deceased as the deceased was a bachelor at the time of the accident. The multiplier of 18 adopted by the Tribunal is also a correct assessment, in view of the fact that the deceased was aged 19 years at the time of the accident. Since this Court has enhanced the notional monthly income of the deceased to Rs.11,000/- instead of Rs.8,000/- fixed by the Tribunal, the compensation towards loss of pecuniary benefits payable to the Appellants / Claimants is reassessed by this Court at Rs.16,63,200/- instead of Rs.12,09,600/- fixed by the Tribunal.

7. With regard to the compensation awarded by the Tribunal under various other heads namely loss of love and



affection, funeral expenses and transport expenses are concerned, the same is confirmed by this Court as it cannot be considered to be inadequate as alleged by the Appellants.

8. However, the Tribunal has failed to award any compensation to the Appellants / claimants towards loss of estate which they are legally entitled to as per the settled law. Therefore, this Court awards a compensation of Rs.15,000/- to the Appellants towards loss of estate.

9. For the foregoing reasons, the compensation awarded by the Tribunal at Rs.13,14,600/- is enhanced to Rs.17,83,200/- by this Court as detailed hereunder:

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Loss of dependency	12,09,600/- (8000 + 40% = 11200 x 12 x 18 = 2419200 - 50%)	16,63,200/- (11000 + 40% = 15400 x 12 x 18 = 3326400 - 50%)
Loss of love and affection	80,000/- (40,000 x 2)	80,000/- (40,000 x 2)
Funeral expenses	15,000/-	15,000/-
Transport Expenses	10,000/-	10,000/-
Loss of estate	--	15,000/-
Total	13,14,600/-	17,83,200/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed by enhancing the award amount from Rs.13,14,600/- to Rs.17,83,200/-. The second respondent Insurance Company is directed to deposit the enhanced award amount, after deducting the amount already deposited if any, together with interest at the rate of 7.5% from the date of claim till the date of deposit and costs to the credit of MCOP.No.218 of 2019 on the file of the learned Subordinate Judge's Court, Punruti, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the amount lying to the credit of MCOP.No.218 of 2019 to the bank account of the Appellants/claimants in the ratio apportioned by the Tribunal through RTGS within a period of one week thereafter. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar



To

Motor Accidents Claims Tribunal /
Subordinate Judge's Court,
Panruti.

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

+2ccs to Ms. Ramya V. Rao, Advocate SR.No.45458

C.M.A.No.2023 of 2021

SRA (CO)
GMY (29/10/2021)