



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2108 of 2021

- 1.Arjunan
- 2.Malliga
- 3.Minor Chitra

...Appellants/Petitioners

(Minor 3rd Appellant is rep. by next friend Malliga, the second Appellant herein)

Vs

- 1.Harijinder Singh Gill
- 2.The Branch Manager,
The National Insurance Company Ltd.,
Dadri Palika, G.T.Road, Dadri - 203207,
State Code-9, Uttarpradesh.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, challenging the award passed in judgment and decree dated 07.05.2020 made in MCOP.No.874 of 2018 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Krishnagiri.

For Appellant	: Mr.S.P.Yuaraj
For Respondent 2	: Ms.R.Sreevidhya
For Respondent 1	: No appearance

JUDGMENT

This Appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 07.05.2020 passed by the Motor Accident Claims Tribunal (Additional District Court, Krishnagiri) in MCOP.No.874 of 2018.

2. The Appellants/claimants unsatisfied with the quantum of compensation awarded by the Tribunal have preferred this appeal seeking for enhancement of compensation. The details of the compensation awarded by the Tribunal are as follows:



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Heads	Award Amount (Rs.)
Loss of income	13,60,800/- (9000 + 40% = 12600 - 50% = 6300 x 12 x 18)
Loss of love and affection	80,000/-
Funeral Expenses	15,000/-
Loss of estate	15,000/-
Total	14,70,800/-

3. The deceased was aged 19 years at the time of the accident which happened on 30.11.2017. The cause of the accident has not been disputed by the respondents before the Tribunal. The only question that arises for consideration is whether the Appellants/claimants are entitled for enhancement of compensation or not.

4. In the claim petition, the Appellants/claimants who are the dependants of the deceased have pleaded that the deceased was working as a manager (production) in E-Land Apparel Ltd., Bangalore and earning Rs.19,800/- per month at the time of the accident. Since the Appellants/claimants have not been able to prove the income of the deceased, the Tribunal has fixed the notional monthly income of the deceased at Rs.9,000/-. The Appellants/claimants have filed the salary certificates for the months of May 2017, June 2017 & July 2017 which have been marked as Ex.P7, Ex.P8 & Ex.P9 respectively before the Tribunal. As seen from the salary certificates, the deceased was earning Rs.19,800/- per month. However, the Appellants/claimants have not examined the employer of the deceased to prove the same. The accident happened on 30.11.2017. After giving due consideration to the year of the accident and the salary certificates filed by the Appellants/claimants before the Tribunal which have been marked as Ex.P7, Ex.P8 & Ex.P9 which discloses that the deceased was working as a manager (production) in E-Land Apparel Ltd., Bangalore and earning Rs.19,800/- per month at the time of the accident, this Court is of the considered view that the assessment of notional monthly income of the deceased fixed by the Tribunal at Rs.9,000/- is low and it has to be enhanced. Accordingly, this Court enhances the notional monthly income of the deceased to Rs.12,000/- from Rs.9,000/- erroneously fixed by the Tribunal.



5. The Tribunal has awarded loss of future prospects at 40%, after giving due consideration to the avocation and age of the deceased which is confirmed by this Court. The Tribunal has also deducted 50% towards personal expenses of the deceased as the deceased was a bachelor at the time of the accident which is also confirmed by this Court as it is in accordance with law. The Tribunal has adopted the correct multiplier of 18, since the deceased was aged 19 years at the time of the accident which is also confirmed by this Court. Since the notional monthly income of the deceased is enhanced to Rs.12,000/- from Rs.9,000/- fixed by the Tribunal, the compensation towards loss of income is enhanced to Rs.18,14,400/- ($12000 + 40\% = 16800 - 50\% = 8400 \times 12 \times 18$) from Rs.13,60,800/- erroneously fixed by the Tribunal.

6. Insofar as the compensation awarded by the Tribunal under various other heads namely loss of love and affection at Rs.80,000/-, funeral expenses at Rs.15,000/- and Loss of estate at Rs.15,000/- are concerned, the same is a just compensation and it does not call for any interference by this Court and therefore, the same is confirmed by this Court.

7. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced to Rs.19,24,400/- from Rs.14,70,800/- as detailed hereunder:

Heads	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Loss of income	13,60,800/- ($9000 + 40\% = 12600 - 50\% = 6300 \times 12 \times 18$)	18,14,400/- ($12000 + 40\% = 16800 - 50\% = 8400 \times 12 \times 18$)
Loss of love and affection	80,000/-	80,000/-
Funeral Expenses	15,000/-	15,000/-
Loss of estate	15,000/-	15,000/-
Total	14,70,800/-	19,24,400/-

8. In the result, the appeal is partly allowed by enhancing the award amount from Rs.14,70,800/- to Rs.19,24,400/-. The respondents are jointly and severally directed to deposit the enhanced award amount, together with interest from the date of claim till the date of deposit, after deducting the amount already deposited if any, to the credit of MCOP.No.874 of 2018 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 respective share of award amount lying to the credit of MCOP.No.874 of 2018 to the bank account of the first and second Appellants/first and second claimants through RTGS as per the ratio apportioned by the Tribunal within a period of one week thereafter. Since the third Appellant/third claimant is a minor, her respective share of award amount, as per the ratio apportioned by the Tribunal shall be deposited in the interest bearing fixed deposit in any one of the Nationalised Bank till she attains the age of majority and her mother, the second Appellant is permitted to withdraw the interest accrued once in six months, till she attains the age of majority. If the third Appellant/third claimant attains the age of majority, it is open for her to file a formal petition before the Tribunal to declare her as major. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal
Additional District Judge,
Krishnagiri.

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

+1 CC to Mr.S.P.Yuaraj, Advocate sr 52670.
+1 CC to M/s.R. Sreevidya, Advocate sr 52624.

C.M.A.No.2108 of 2021

AK(CO)
SP(25/11/2021)