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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2021

CORAM:

THE HONOURABLE TMT.JUSTICE S.KANNAMMAL

C.M.A.No.1828 of 2020

1.Thangayi

2.Semmalai

.. Appellants/Petitioners

Vs.

1.Karnan

2.National Insurance Company Limited,  
Divisional Office - 2,  
Balaji Towers,  
11, Ramakrishna Road,  
Salem - 636 007.

.. Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 01.02.2020 made in M.C.O.P.No.2013 of 2017, on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem.

For Appellants : Mr.J.Prithivi

For R2 : Mr.D.Bhaskaran

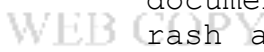
For R1 : No Appearance

J U D G M E N T

The matter is heard through "Video Conferencing/Hybrid mode".

2.This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 01.02.2020 made in M.C.O.P.No.2013 of 2017, on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem.

3.The appellants are the claimants in M.C.O.P.No.2013 of 2017, on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem. The appellants are mother and father of the deceased. They filed the above said claim petition, claiming a sum of Rs.15,00,000/- as compensation for

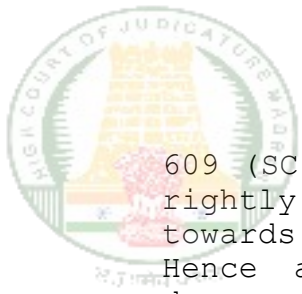


4. The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Ashok Leyland Heavy Goods Vehicle owned by 1<sup>st</sup> respondent and directed the 2<sup>nd</sup> respondent to pay a sum of Rs.9,37,200/- as compensation to the appellants at first instance and then recover the same from the 1<sup>st</sup> respondent.

6. The learned counsel appearing for the appellants contended that at the time of accident the deceased aged 21 years, was completed his bachelor degree in Zoology and was earning a sum of Rs.8,000/- per month by taking home tuition. But the Tribunal fixed a meagre sum of Rs.6,000/- per month as notional income of the deceased. The Tribunal failed to award any compensation towards pillial consortium and prayed for enhancement of compensation.

8. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2<sup>nd</sup> respondent-Insurance Company and perused the entire materials on record.

9. From the materials available on record, it is seen that at the time of accident the deceased was aged 21 years, completed his bachelor degree in Zoology and was earning a sum of Rs.8,000/- per month by taking home tuition. The appellants have not filed any documents to prove their contention. In the absence of any material evidence, the Tribunal fixed a sum of Rs.6,000/- per month as notional income of the deceased. The accident is of the year 2017 and the cost of living has increased enormously. Hence, a sum of Rs.8,000/- per month is fixed as notional income of the deceased. The deceased was aged 21 years at the time of accident. The Tribunal following the judgment of the Hon'ble Apex Court reported in 2017 (2) TN MAC



609 (SC), [National Insurance Company Limited Vs. Pranay Sethi], rightly applied multiplier '18' and granted 40% compensation towards future prospects. The deceased died as a bachelor. Hence after deducting 50% towards personal expenses of the deceased, the amount awarded by the Tribunal towards loss of dependency is modified to Rs.12,09,600/- [(Rs.8,000 + 3,200 (Rs.8,000/- x 40%) x 12 x 18 x 1/2)]. The Tribunal has not awarded any compensation towards pillial consortium and transport expenses. A reasonable sum of Rs.80,000/- and Rs.10,000/- respectively are granted towards pillial consortium and transport expenses. The amounts awarded by the Tribunal towards funeral expenses and loss of estate are just and reasonable and hence, the same is hereby confirmed.

| S. No | Description        | Amount awarded by Tribunal (Rs) | Amount awarded by this Court (Rs)                  | Award confirmed or enhanced or granted |
|-------|--------------------|---------------------------------|----------------------------------------------------|----------------------------------------|
| 1.    | Loss of dependency | 9,07,200/-                      | 12,09,600/-                                        | Enhanced                               |
| 2.    | Funeral expenses   | 15,000/-                        | 15,000/-                                           | Confirmed                              |
| 3.    | Loss of estate     | 15,000/-                        | 15,000/-                                           | Confirmed                              |
| 4.    | Pillial consortium | -                               | 80,000/-                                           | Granted                                |
| 5.    | Transport expenses | -                               | 10,000/-                                           | Granted                                |
|       | Total              | Rs.9,37,200/-                   | Rs.13,29,600/-<br>rounded off to<br>Rs.13,30,000/- | Enhanced by<br>Rs.3,92,800/-           |

10. In the result, this Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.9,37,200/- is hereby enhanced to Rs.13,30,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent-Insurance Company Limited, is directed to deposit the entire amount awarded by this Court along with interest and costs, at the first instance and recover the same from the 1st respondent, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.2013 of 2017, on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem. On such deposit, the appellants are permitted to withdraw their respective share of the award amount now determined by this Court, as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any,



already withdrawn by making necessary applications before the Tribunal. The appellants are directed to pay the necessary Court fee on the enhanced amount of compensation now determined by this Court. No costs.

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Sd/-  
Assistant Registrar(JJ Act)

//True Copy//

Sub Assistant Registrar

mpa

To

1.The Special District Judge,  
Motor Accident Claims Tribunal,  
Salem.

+1cc to Mr.S.Kaithamalai Kumaran, Advocate, S.R.No.36908

C.M.A.No.1828 of 2020

PVS (CO)  
CB(18/11/2021)