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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2189 of 2021

1.Kalaivani

2.Minor P.R.Subiksha

3.Minor P.R.Sushanth

4.Perumal

5.P.Solaiyamma ...
Vs

Appellants/Petitioners

1.N.Surya

2.The Branch Manager,
United India Insurance Company Ltd.,
No.50A, Pallivasal Street,
Perambalur.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the Award passed in judgment and decree dated 22.04.2021 made in MCOP.No.416 of 2018 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Perambalur.

For Appellant : Mr.SP.Yuaraj

For Respondent 2 : Ms.Janani
for Mr.J.Chandran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the Claimants seeking enhancement of compensation under the impugned award dated 22.04.2021 passed by the Motor Accident Claims Tribunal, (Principal District Judge, Perambalur) in MCOP.No.416 of 2018.

2. The Tribunal under the impugned award directed the second respondent Insurance Company to pay the Appellants/claimants a compensation of Rs.10,93,750/- as



detailed hereunder:

Heads	Award Amount (Rs.)
Loss of income	10,23,750/- (6562 x 12 x 13)
Loss of consortium	40,000/-
Funeral Expenses	15,000/-
Loss of estate	15,000/-
Total	10,93,750/-

3. The Appellants are the dependants of the deceased Ramar who died on 11.05.2018 as a result of an accident caused by a vehicle owned by the first respondent and insured with the second respondent Insurance Company. The Appellants/claimants unsatisfied with the quantum of compensation awarded by the Tribunal have preferred this appeal seeking enhancement of compensation.

4. As per the claim petition, the Appellants/claimants have pleaded that the deceased was a driver at the time of the accident. But however, no documentary evidence was produced before the Tribunal to prove that he was a driver. Since no documentary evidence has been produced, the Tribunal has fixed the notional monthly income of the deceased at Rs.7,000/-. The accident having happened in the year 2018, the assessment of notional monthly income of the deceased by the Tribunal at Rs.7,000/- is low and it has to be necessarily enhanced. This Court after giving due consideration to the year of the accident and the claim made by the Appellants that the deceased was a driver at the time of the accident, reassessed his notional monthly income at Rs.11,000/- instead of Rs.7,000/- erroneously fixed by the Tribunal. The Tribunal has awarded loss of future prospects to the Appellants/claimants at 25% in accordance with settled law and the same is confirmed by this Court. The Tribunal has also deducted 1/4th towards personal expenses of the deceased, since the Appellants/claimants who are the dependants of the deceased are five in number and the same is confirmed by this Court. Since the notional monthly income of the deceased is enhanced to Rs.11,000/- by this court from Rs. 7,000/- fixed by the Tribunal, the compensation for loss of income to the Appellants/claimants is reassessed by this court at Rs.16,08,672/- instead of Rs.10,23,750/- erroneously fixed by the Tribunal.



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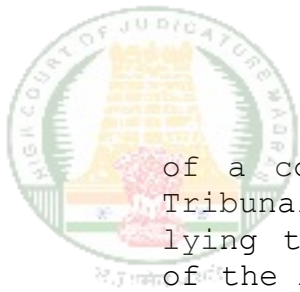
5. Insofar as the compensation awarded by the Tribunal towards loss of consortium at Rs.40,000/-, funeral expenses at Rs.15,000/- and Loss of estate at Rs.15,000/- are concerned, the same cannot be considered to be inadequate as alleged by the Appellants/claimants and the same is confirmed by this Court.

6. However, the Tribunal has erroneously failed to award any compensation towards loss of love and affection to the Appellants 2 to 5 / claimants 2 to 5 who are the minor children and the parents of the deceased which they are legally entitled to and as per the settled law, each of them are entitled to Rs.40,000/- as compensation towards loss of love and affection. Since the Tribunal has not awarded any compensation towards loss of love and affection to the Appellants 2 to 5 / claimants 2 to 5, this Court awards a compensation of Rs.1,60,000/- towards loss of love and affection to the Appellants 2 to 5 / claimants 2 to 5.

7. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced to Rs.18,38,672/- from Rs.10,93,750/- in the following manner:

Heads	Amount Awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)
Loss of income	10,23,750/- (6562 x 12 x 13)	16,08,672/- (10312 x 12 x 13)
Loss of consortium	40,000/-	40,000/-
Funeral Expenses	15,000/-	15,000/-
Loss of estate	15,000/-	15,000/-
Loss of love and affection	--	1,60,000/-
Total	10,93,750/-	18,38,672/-

8. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced to Rs.18,38,672/- from Rs.10,93,750/- Accordingly, this civil miscellaneous appeal is partly allowed. The Second respondent Insurance company is directed to deposit the enhanced award amount, after deducting the amount already deposited if any, together with interest from the date of claim till the date of deposit and cost to the credit of MCOP.No.416 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.416 of 2018 to the bank account of the Appellants 1 4 & 5/claimants 1, 4 & 5 through RTGS as per the ratio apportioned by the Tribunal within a period of one week thereafter. Since the Appellants 2 & 3 / Claimants 2 & 3 are minors, their respective share of award amount shall be deposited in interest bearing fixed deposit in any one of the Nationalised Banks till they attain majority. The first Appellant/first claimant is permitted to withdraw the interest accrued once in six months for the welfare of the minors. If the minors attain the age of majority, it is open for them to file a formal petition to declare them as majors. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AS)

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Sub Assistant Registrar

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To

1. The Principal District Judge,
Perambalur.

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

+1cc to Mr.J.Chandran, Advocate SR.No.46223
+1cc to Mr.SP.Yuvaraj, Advocate SR.No.45638

C.M.A.No.2189 of 2021

RLD (CO)
GN (09/12/2021)