

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3686 of 2019

1.Sindhuja

W/o.Late Kalamani @ Sundar

2.G.Evisha (Minor)

D/o.Late Kalaimani @ Sundar

Represented by her mother and next friend
the first appellant herein

3.Selvi,

W/o.Sekar

4.Sekar,

S/o.Veerappan

... Appellants

Vs.

1.J.Manikandan

2.The New India Assurance Co. Ltd.,

Adayar Branch,

No.77, I Avenue Indra Nagar,

Adayar, Chennai – 600 020.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 11.11.2016 made in M.C.O.P.No.1522 of 2013, on the file of the Court of the Chief Judge, MCOP Tribunal, Chennai.

For Appellants : Mr.S.Ravikumar

For Respondents :

For R1 : No appearance

For R2 : Mr.J.Chandran

JUDGMENT

The appellants are the claimants in this appeal and are aggrieved by the impugned Judgment and decree dated 11.11.2016 passed by the Motor Accidents Claims Tribunal, Court of the Chief Judge, Chennai in M.C.O.P.No.1522 of 2013.

2. By the impugned Judgment and decree, the Tribunal has awarded a sum of Rs.18,01,500/- to the appellants/claimants under the following heads:-

Sl.No.	Heads	Calculation
1.	Salary	Rs.7,000/- per month
2.	50% of (i) above to be added as future prospects	Rs.7,000/- + 3,500 = Rs.10,500/- per month
3.	1/4 th of (ii) deducted as personal expenses of the deceased	Rs.10,500/- - 2625 = Rs.7,875/- per month
4.	Compensation after multiplier of 17 is applied	Rs. 7875 x 12 x 17 = Rs.16,06,500/-
5.	Loss of Consortium to 1 st petitioner	Rs.1,00,000/-
6.	Loss of love and affection to petitioners 1 and 2 (Rs.25,000/- each) Loss of love and affection to 3 rd and 4 th petitioner (at Rs.10,000/- each)	Rs. 50,000/- Rs. 20,000/-
7.	Funeral Expenses	Rs. 25,000/-
	TOTAL COMPENSATION AWARDED	Rs.18,01,500/-

3. The above compensation of Rs.18,01,500/- has been arrived at a notional income of Rs.7,000/- on the ground that the deceased was only a Beautician and Hair Cutter and that there was a difference in the evidence of P.W.1 and P.W.3 regarding the income of the deceased.

4. The learned counsel for the appellants/claimants submits that the Tribunal has considered the notional income of Rs.7,000/- per month, which is very low and therefore prays for recomputation/enhancement of the compensation.

5. It is the submission of the learned counsel for the 2nd respondent/Insurance Company that the Tribunal has passed a well-reasoned Judgment and decree and requires no interference.

6. Heard the learned counsel for the appellants and the 2nd respondent.

7. Since the Tribunal has considered very low notional income of Rs.7,000 per month, this Court is of the view that the Tribunal has not awarded just compensation to the claimants who are the appellants herein. Under these circumstances, the compensation payable to the appellants/claimants is recomputed by considering the notional income of the deceased as Rs.12,500/- per month considering the fact that the deceased was a Beautician and Hair Cutter.

8. Accordingly, the compensation awarded by the Tribunal is recomputed as follows:-

Heads and Calculation	Amount
<u>Loss of earning capacity:-</u>	
Monthly Income : Rs. 12,500/-	
Less: Personal Expenses 1/4th (12,500 x 1/4) : Rs. 3,125/-	
	Rs. 15,625/-
Annual Contribution to the family (15,625 x 12) : Rs. 1,87,500/-	
Multiplier 17 (1,87,500 x 17) : Rs.31,87,500/-	
	Rs.31,87,500/-

Heads and Calculation	Amount
Loss of Consortium to the 1 st appellant	Rs. 1,00,000/-
Loss of Parental Consortium to the 2 nd appellant	Rs. 40,000/-
Loss of Filial Consortium to the 3 rd and 4 th appellants (Rs.40,000/- each)	Rs. 80,000/-
Funeral Expenses	Rs. 25,000/-
Total	Rs. 34,32,500/-

Filial & Parental Consortium is added by this Court as per the decision of the Hon'ble Supreme Court in **Magma Insurance Company Limited Vs Nanuram @ Chuhruram and others**, (2018) 18 SCC 130.

9. The 2nd respondent/Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.34,32,500/- together with interest at 7.5% per annum from the date of numbering of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of a copy of this Judgment.

10. On such deposit being made by the 2nd respondent/Insurance Company, the 1st, 3rd & 4th appellants/1st, 3rd & 4th claimants are permitted to withdraw the same together with interest accrued thereon, less any

amount already withdrawn in the same proportion as was ordered by the Tribunal.

11. If the 2nd appellant/2nd claimant has not been attained the age of majority, the Tribunal is directed to deposit her share in any one of the Nationalised Bank under the reinvestment scheme till she attains the age of majority and permit the 1st appellant/guardian of the minor to withdraw the accrued interest on the share of the 2nd appellant/2nd claimant once in three months directly from the said Bank. On attaining the majority, the 2nd appellant/2nd claimant is permitted to withdraw her share together with interest accrued thereon, by filing suitable application before the Tribunal.

12. This Civil Miscellaneous Appeal is partly allowed with the above observations and directions. No costs.

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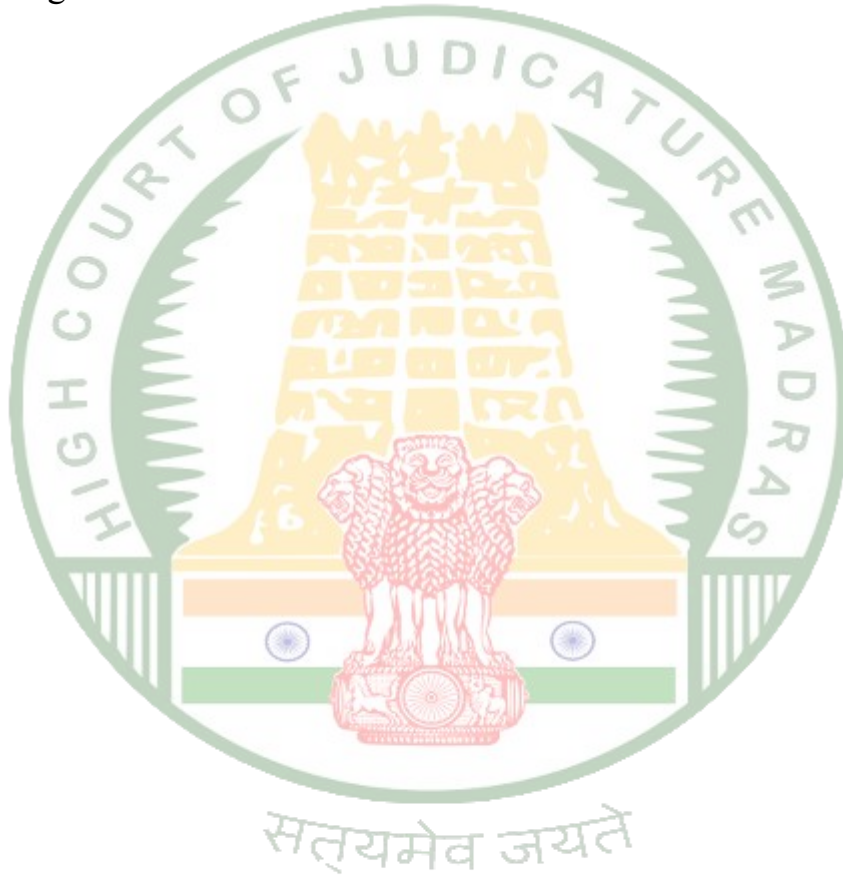
Internet : Yes / No

Index : Yes/No

Speaking Order/Non-speaking Order

To:

- 1.The Motor Accidents Claims Tribunal,
Court of the Chief Judge, Chennai.
- 2.The Section Officer,
Vernacular Section,
Madras High Court.



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C.SARAVANAN, J.

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