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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2315 of 2021

1.V.Balammal

2.C.Varadharaj ... Appellants/Petitioners

Versus

1. N.Vineshkumar

2. K.Balu

3.The Manager,
National Insurance Company Limited,
No.1, Marumalarchi Shopping Complex,
R.Pudupatti Post, Rasipuram Taluk,
Namakkal District. ... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to allow the present appeal award enhanced compensation in judgment and decree dated 30.03.2021 in M.C.O.P.No.131/2018 on the file of the Motor accident Claims Tribunal (Sub Judge), Rasipuram as prayed for in this appeal with cost.

For Appellants : Mrs.V.Revathi

For Respondents : Mr.J.Chandran for R3

JUDGMENT

This appeal has been filed by the appellants/claimants seeking enhancement of compensation under the impugned award dated 30.03.2021 passed by the Motor Accident Claims Tribunal, (Sub Judge), Rasipuram in M.C.O.P. No.131 of 2018.

2. The appellants / claimants who are the parents of the deceased who died as a result of an accident caused by a



vehicle insured with the 3rd respondent / Insurance Company and they preferred a claim before the Motor Accident Claims Tribunal, (Sub Judge), Rasipuram in M.C.O.P. No.131 of 2018 seeking compensation for the death of their son.

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3. The Motor Accident Claims Tribunal under the impugned award directed the 3rd respondent / Insurance Company to pay the appellants / claimants a compensation of Rs.10,83,000/-, as detailed hereunder :

Heads	Amount awarded by the Tribunal (Rs.)
For Pecuniary Loss	10,08,000/-
For Funeral Expenses	15,000/-
For Consortium	40,000/-
For Loss of Estate	15,000/-
For Transportation	5,000/-
Total	10,83,000/-

4. The appellants / claimants unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award has preferred this appeal seeking for enhancement.

5. Heard Mrs.V.Revathi, learned counsel for the appellants and Mr.J.Chandran, learned counsel for the third respondent / Insurance Company.

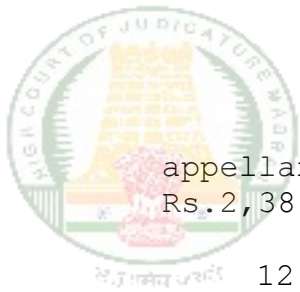
6. This Court has perused the materials and evidence available on record before the Tribunal.

7. The deceased was a Sago Factory Labourer, aged 38 years at the time of accident which happened on 18.04.2018. The cause of the accident, age and avocation of the deceased has not been disputed by the respondents as seen from the evidence available on record. In the claim petition, the appellants/claimants had pleaded that the deceased was earning Rs.15,000/- per month. However, the Tribunal under the impugned award has fixed the notional monthly income of the deceased at Rs.8,000/- which in the considered view of this Court is low. If the age, avocation and year of the accident was taken into consideration, the Tribunal ought to have fixed the monthly income of the deceased at a higher sum. This Court after giving due consideration to the age, avocation and year of the accident which happened in



10. For the foregoing reasons, the award of the Tribunal is hereby modified in the following manner :

11. Since 15% contributory negligence is fixed on the part of the deceased, the compensation payable to the



appellants/claimants is Rs.13,48,950/- (Rs.15,87,000/- -
Rs.2,38,050/- (towards 15% contributory negligence).

12. In the result, the appeal filed by the appellants /
claimants, stands partly allowed by enhancing the compensation
from Rs.10,83,000/- to Rs.13,48,950/- as indicated above. No
costs.

13. The third respondent / Insurance Company is directed to
deposit the entire award amount as assessed by this Court
together with interest at 7.5% p.a. from the date of claim
petition till the date of realization, less the amount, if any,
already deposited to the credit of M.C.O.P. No.131 of 2018 on
the file of the Motor accident Claims Tribunal, Sub Judge,
Rasipuram, within a period of four weeks from the date of
receipt of a copy of this Judgment. On such deposit being made,
the Tribunal is directed to transfer the award amount directly
to the bank account of the appellants / claimants, through
RTGS, within a period of two weeks thereafter. The requisite
Court fee, if any has to be paid by the appellants/claimants
before receiving the copy of this Judgment.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

ssn
To

1. The Sub Judge,
Motor accident Claims Tribunal,
Rasipuram.
2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai - 104.

+1cc to Mr.J.Chandran, Advocate Sr.44920

C.M.A.No.2315 of 2021

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