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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3066 of 2019

- 1.Thamizharasi
- 2.Vijaya
- 3.Saritha
- 4.Lavanya

(As per amendment order in M.P.No.2491/2011
the third petitioner's name Savitha was amended as Saritha)
...Appellants/Petitioners

Vs.

1.Ayub Khan
No.85A, Ground Floor, 1st Main Road
Muniyappa Nagar
Nerkundran, Chennai 600 107

2.United India Insurance Co. Limited
Chander Plaza, 1st Floor
No.48, Arcot Road, Saligramam
Chennai 600 093

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 09.01.2018 made in M.C.O.P.No.6499 of 2014 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.2, Motor Accidents Claims Petitions) Small Causes Court, Chennai and enhance the award amount.

For Appellants : Mr. Amar D.Pandiya

For Respondents: R1 - Left
Mr.C.Paranthaman for R2



JUDGMENT

This appeal has been filed by the claimants for enhancement of compensation awarded by the Motor Accident Claims Tribunal (Special Sub Court No.2, Motor Accidents Claims Petition) Small Causes Court, Chennai vide judgment and decree dated 09.01.2018 made in M.C.O.P.No.6499 of 2014.

2.The appellants are the wife and three daughters of the deceased Manickam who had met with an accident and died. The Tribunal by its impugned Judgment and decree has awarded a sum of Rs.10,04,120/- to the appellants/claimants as compensation under the following heads:-

Sl.No	Particulars	Amount
1.	Age : 55 years Monthly income : Rs.9,650/- Future prospects : 10% Annual Income : Rs.1,27,380/- No. of dependents: 2 Loss of dependency : Rs.84,920/- per annum Multiplier : 11	
2.	Loss of Dependency	Rs.9,34,120/-
3.	Loss of Consortium	Rs. 40,000/-
4.	Loss of Estate	Rs. 15,000/-
5.	Funeral Expenses	Rs. 15,000/-
	Total	Rs.10,04,120/-

3.In this appeal the learned counsels for appellants submit that the tribunal has wrongly deducted 1/3rd towards the personal expenses of the deceased instead of 1/4th. It is further submitted that the tribunal has not awarded any amount toward loss of parental consortium to other appellants as per the decision of the Hon'ble Supreme Court in Magma Insurance Company Limited Vs Nanuram @ Chuhuram and others reported in (2018) 18 SCC 130.



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4. Under these circumstances, the learned counsel for the appellants submits that the award amount made in loss of dependency has to be recomputed as Rs.10,50,885/- instead of Rs.9,34,120/- as below:

Rs.95,535/- x 11 = Rs.10,50,885/- instead of Rs.9,34,120/-
Therefore, he submits there has to be an enhancement in compensation for a sum of Rs.1,16,765/- towards loss of dependency and another sum of Rs.1,20,000/- towards loss of filial consortium.

5. Defending the impugned judgment and decree, the learned counsel for the 2nd respondent / United India Insurance Co. Limited submits that the 2nd appellant was not a dependent of the deceased Manickam and therefore the Tribunal has correctly deducted 1/3rd towards personal expenses of the deceased while computing compensation. He further submits that there is no basis on which further amounts can be awarded towards loss of filial consortium and parental consortium.

6. Heard the counsels for the appellants and the 2nd respondent. Considering the defence, I have perused the impugned judgment and decree and the exhibits that were marked before the tribunal and the deposition of the witnesses before the tribunal.

7. The present appeal has been filed only for enhancement of compensation awarded by the Tribunal. In my view, the Tribunal ought to have deducted only 1/4th towards personal expenses of the deceased as admittedly the 2nd appellant was not a dependent of the deceased even according to the appellant. Therefore, there is no merit in the submission of the learned counsel for the appellant. Accordingly, the compensation awarded towards loss of dependency for a sum of Rs.9,34,120/- cannot be enhanced to Rs.10,50,885/-. The Hon'ble Supreme Court has however held that compensation towards filial and compensation has to be awarded in a case of death. Therefore there shall be further addition of Rs.1,20,000/-.

8. In the result, the award amount of Rs.10,04,200/- is enhanced by a sum of Rs.1,20,000/- (Rupees One lakh Twenty Thousand only).

9. The 2nd respondent/ United India Insurance Co. Limited is therefore directed to deposit the enhanced amount of compensation of Rs.11,24,200/- (Rs.10,04,200 + Rs.1,20,000/-) (Rupees Eleven Lakhs Twenty Four Thousand Two Hundred Only)



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.

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10. On such deposit being made by the 2nd respondent/ United India Insurance Co. Limited, the appellants / claimants are permitted to withdraw the same together with interest accrued thereon, less any amount already withdrawn in the same proportion as it was ordered by the Tribunal.

11. This Civil Miscellaneous Appeal allowed accordingly. No costs.

Sd/-
Assistant Registrar

// True Copy//

Sub Assistant Registrar

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To

1. The Special Sub Court No.2
(Motor Accidents Claims Petitions)
Motor Accident Claims Tribunal
Small Causes Court, Chennai

2. United India Insurance Co. Limited
Chander Plaza, 1st Floor
No.48, Arcot Road, Saligramam
Chennai 600 093

3. The Section Officer
Vernacular Section
Madras High Court

+1 CC to Mr.S. Ravi Kumar, Advocate sr 28092
+1 CC to Mr.C.Paranthaman, Advocate sr 28161.

C.M.A.No.3066 of 2019

PA(CO)
SP(22/11/2021)