



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1879 of 2020

Sakundhala
W/o.Late Anantharaman

... Appellant/Petitioner

Vs.

1. M.Aruna W/o.Vengaiah

2. United India Ins. Co. Ltd.
Motor Third Party Claims Cezll Hub,
Old No.40-42, New No.134, Silling Building,
Greems Road, chennai - 600 006.

....Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to enhance the amount awarded in M.C.O.P.No.1150 of 2017 dated 14.11.2019 on the file of the Motor Accident Claims Tribunal, (Small Causes Court, Special Sub Judge No.1), Chennai and prayed for with interest and cost.

For Appellant : Mr.K.Varadhakamaraj

For Respondent-1 : NA

For Respondent-2 : Mrs.Rathna Thara

JUDGMENT

The mother of the deceased is the appellant in this appeal. She has filed this appeal for enhancement of compensation awarded by the Tribunal in the impugned Judgment and decree dated 14.11.2019.

2. By the impugned Judgment, the Tribunal has awarded a sum of Rs.12,40,180/- as detailed below;



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S.No.	Heads of Compensation	Amount Awarded by the Tribunal
1	Loss of dependency	Rs.11,55,180/-
2	Loss of Love and Affection	Rs.50,000/-
3	Loss of Estate	Rs.15,000/-
4	Transport charges	Rs.5,000/-
5	Funeral Expenses	Rs.15000/-
	Total	Rs.12,40,180/-

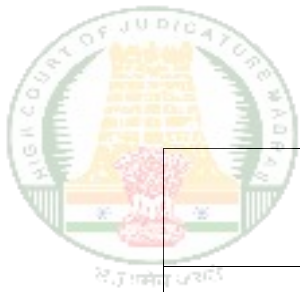
3. The learned Counsel for the appellant submits that the Tribunal has committed in error in adopting net income of the deceased for computing the compensation towards loss of dependency. The learned Counsel further submits that as per the decision of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12, the deduction towards personal expenses could have been only 1/3 and not 50% and therefore, he prays for enhancement of the compensation awarded by the Tribunal.

4. The learned Counsel for the 2nd respondent/Insurance Company submits that the Tribunal has awarded just compensation and therefore, the award amount may be confirmed and the present appeal may be dismissed. He would further submit that the appellant/claimant is a 70 years old lady and therefore, split multiplier ought to have been adopted and thereby, he prays for dismissal of the appeal.

5. In my view, the Tribunal ought to have considered the gross income of the deceased to determine the correct compensation. Since, only the appellant was the dependent of the deceased, the deduction towards personal expenses of the deceased has to be 50% and not 1/3 as submitted by the learned Counsel for the appellant.

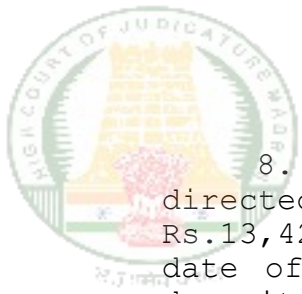
6. The amount awarded by the Tribunal towards loss of love and affection (filial consortium) has to be reduced to Rs.40,000/- and not Rs.50,000/- as per the decision of the Hon'ble Supreme Court in Magma Insurance Company Limited Vs Nanuram @ Chuhuram and others, (2018) 18 SCC 130.

7. In the result, the award amount is modified as follows:-



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Heads and Calculation	Amount
Loss of dependency:- Monthly Income : Rs.13,000/- Add: *Future Prospects at 25% (13,000 x 25/100) : Rs. 3,250/- ----- : Rs.16,250/- Less: Personal Expenses 1/2nd (16,250 x ½) : Rs. 8,125/- ----- : Rs. 8,125/- Annual Contribution to the family(8,125 x 12) : Rs.97,500/- Multiplier 13 (97,500 x 13) : Rs.12,67,500/-	Rs.12,67,500/-
Loss of Love & Affection (Filial Consortium)	Rs. 40,000/-
Loss of Estate	Rs. 15,000/-
Transport charges	Rs. 5,000/-
Funeral Expenses	Rs. 15,000/-
Total	Rs. 13,42,500/-



8. The 2nd respondent/Insurance Company is therefore directed to deposit the enhanced amount of compensation of Rs.13,42,500/- 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 eight weeks from the date of receipt of a copy of this Judgment.

9. On such deposit being made by the 2nd respondent/Insurance Company, the appellant/claimant is permitted to withdraw the amount together with interest accrued thereon, less any amount already withdrawn in the same proportion as was ordered by the Tribunal.

10. This Civil Miscellaneous Appeal stands Partly Allowed with the above observations. No costs.

Sd/-
Deputy Registrar (P&A)

//True Copy//

Sub Assistant Registrar

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To:

1. The Motor Accident Claims Tribunal,
(Small Causes Court, Special Sub Judge No.1),
Chennai.
2. The V.R. Section,
Madras High Court, Madras.

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.28408

C.M.A.No.1879 of 2020

RSI (CO)
SU(18/11/2021)