

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.10.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.2811 of 2014

R. Ramakrishnan

...Appellant

Vs.

1. Selvi
2. J. Kennady
3. M/s. Southern Refractory,
No.13/2, Main Road, Rajapalayanchavadi,
Needamangalam Taluk, Thiruvarur District.
4. National Insurance Company Limited,
No. 62, TSR Big Street, Kumbakonam 612 001. ...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against decree and judgment dated 20.10.2010 made in M.C.O.P. No. 410 of 2006 on the file of the MACT/ Additional Sub Court at Tiruppur.

For Appellant : Mr. Lokesh for
Mr.Ma.P.Thangavel

For Respondents : R1 - No Appearance
R2 & R3 Exparte

JUDGMENT

(This case was heard through Video Conferencing)

This Appeal has been filed by the father of the deceased Vijayakumar who is the fourth respondent in the claim petition made in M.C.O.P. No. 410 of 2006 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Tiruppur.

2. Heard, Mr. Lokesh, learned counsel representing Mr.Ma.P.Thangavel, learned counsel for the Appellant and Ms.R.Sree Vidhya, learned counsel for the fourth respondent Insurance Company. There is no representation on the side of the first respondent who is the claimant in the claim petition. The respondents 2 & 3 have remained exparte both before the Tribunal as well as this Court.

3. The Appellant as well as the first respondent are the parents of the deceased Vijayakumar who died on 30.05.2005 as a result of an accident caused by a vehicle insured with the fourth respondent. The cause of the accident has not been disputed by the respondents. Before the Tribunal, the first respondent, the mother of the deceased filed a

claim in M.C.O.P. No. 410 of 2006 seeking compensation for the death of her son Vijayakumar wherein the father of the deceased viz., the Appellant herein was the fourth respondent.

4. Under the impugned award dated 20.10.2010, the Tribunal has awarded a compensation of Rs.1,95,000/- together with interest and costs to the first respondent/ claimant as detailed hereunder.

Heads	Awarded by Tribunal in Rs.
Loss of Dependency	1,80,000 (4,000 x 12 x 15 - ½)
Funeral Expenses	5,000
Loss of love and affection	10,000
Total	1,95,000

5. However the Tribunal has excluded the Appellant/ fourth respondent who is the father of the deceased, since the claim was not made by him. Aggrieved by the impugned award passed by the Tribunal in M.C.O.P. No. 410 of 2006, excluding the Appellant / fourth respondent from getting any compensation, this Appeal has been filed by him.

6. The deceased was a Power table supervisor and in the claim petition filed by the first respondent/ claimant, she has pleaded that the deceased was earning Rs.5,000/- per month at the time of the accident. However, the Tribunal has fixed the notional monthly income of the deceased at Rs.4,000/-. This Court in agreement with the said assessment and accordingly, the same is confirmed by this Court. The Tribunal has erroneously failed to award any compensation towards loss of future prospects which the claimants are legally entitled to. After giving due consideration to the age as well as the avocation of the deceased, this Court awards 40% towards loss of future prospects which is in accordance with the settled law. The Tribunal has also erroneously adopted a wrong multiplier of 15 instead of adopting the correct multiplier of 18 as the deceased was aged 22 years at the time of the accident. The Tribunal has rightly deducted 50% towards personal expenses, since the deceased was a bachelor at the time of the accident and the same is confirmed by this Court. Since the loss of future prospects is awarded by this Court at 40% and the multiplier is corrected by this Court to 18 instead of 15 erroneously adopted by the Tribunal, the

loss of dependency is re-assessed by this Court at Rs.6,04,800/- instead of Rs.3,60,000/- erroneously fixed by the Tribunal.

7. The Tribunal has awarded a meagre compensation of Rs.10,000/- towards loss of love and affection. As per the settled law, the parents are entitled to get a total compensation of Rs.80,000/- towards loss of love and affection and each entitled to Rs.40,000/-. Therefore the compensation awarded by the Tribunal towards loss of love and affection to the parents is enhanced from Rs.10,000/- to Rs.80,000/- by this Court.

8. The Tribunal has also awarded a lesser compensation towards funeral expenses at Rs.5,000/- instead of Rs.15,000/- which ought to have been awarded as per the settled law. Accordingly, this Court enhances the compensation towards funeral expenses from Rs.5,000/- to Rs.15,000/-.

9. The Tribunal has also erroneously failed to award any compensation towards loss of estate which the claimants are legally

entitled to. Accordingly, this Court awards a compensation of Rs.15,000/- towards loss of estate.

10. The Tribunal has rightly not awarded any compensation towards transportation as it is a fatal accident claim and the same is confirmed by this Court.

11. Since the Appellant/ fourth respondent and the first respondent are the parents of the deceased Vijayakumar, both of them are equally entitled to get the compensation assessed by this Court.

12. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.1,95,000/- to Rs.7,14,800/- as detailed hereunder.

Heads	Awarded by Tribunal in Rs.	Awarded by This Court in Rs.
Loss of Dependency (4,000 + 1,600 x ½ x 12 x 18)	1,80,000	6,04,800
Funeral Expenses	5,000	15,000
Loss of love and affection	10,000	80,000
Loss of estate	Nil	15,000
Total	1,95,000	7,14,800

13. In the result, this Appeal is partly allowed by enhancing the total compensation from Rs.1,95,000/- to Rs.7,14,800/-. The fourth 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, excluding the period of delay i.e., 1132 days in filing the appeal to the credit of MCOP.No.410 of 2006 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 amount lying to the credit of MCOP.No.410 of 2006 to the bank account of the Appellant and the first respondent in equal proportions within a period of one week thereafter. No costs. The Appellant shall pay the requisite court fee, if any, before obtaining the judgment copy.

सत्यमेव जयते

29.10.2021

ab/nl

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Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order

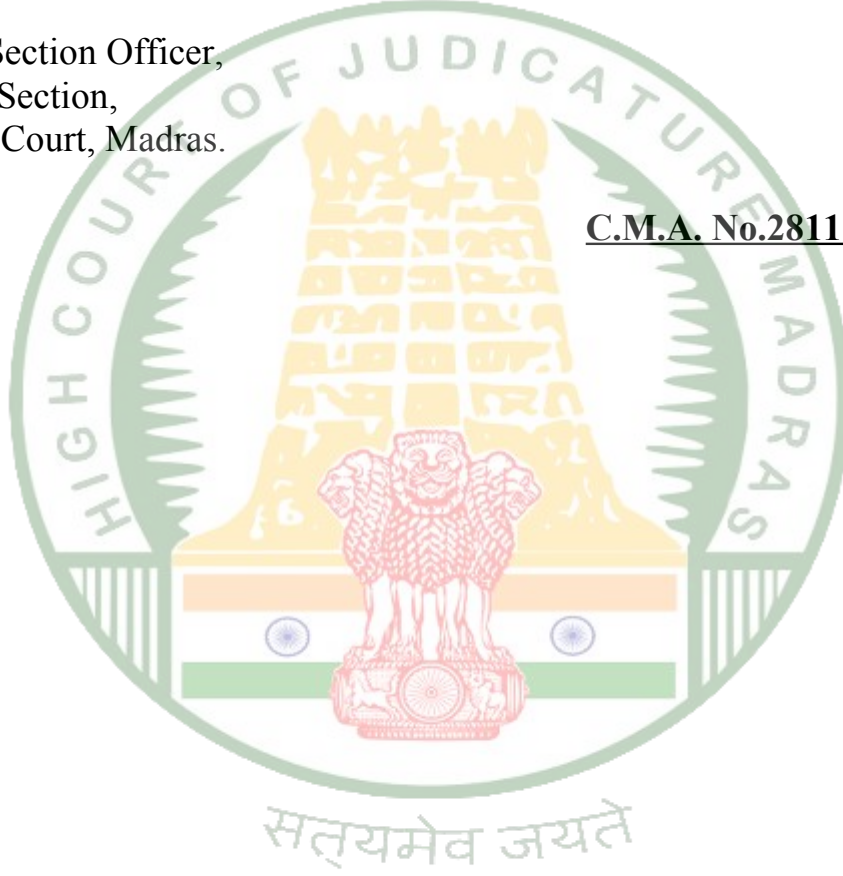
ABDUL QUDDHOSE, J.

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To

1. The Special Judge,
Special Court under TNPID Act,
Coimbatore
2. The Section Officer,
V.R. Section,
High Court, Madras.

C.M.A. No.2811 of 2014



29.10.2021

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