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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.3254 of 2014

1. K.Sundarammal
2. K.Chenrayan
3. B.Padvattu
4. K.Pandian
5. K.Ramamoorthy
6. K.Indira

.. Appellants

Vs.

1. D.Ravikumar
2. Royal Sundaram Alliance Insurance Co. Ltd.,
No.45 & 46, Whites Road
Chennai - 600 014.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to set aside the judgment and decree dated 24.06.2014, made in M.C.O.P.No.2253 of 2009, on the file of the Motor Accidents Claims Tribunal, Special Sub Judge I (dealing with MCOP cases), Chennai.

For Appellants : Mr.C.Munusamy

For Respondent 2: Mr.N.Vijayaraghavan

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J U D G M E N T

(The case has been heard through video conference)

This appeal has been filed by the claimants seeking enhancement of compensation under the impugned Award dated 24.06.2014, passed by the Motor Accidents Claims Tribunal, Special Sub Judge I (dealing with MCOP cases), Chennai, in M.C.O.P.No.2253 of 2009.

2. The appellants/claimants not satisfied with the quantum of compensation awarded by the Tribunal has preferred



this appeal seeking for enhancement. The details of the compensation awarded by the Tribunal under the impugned Award are as follows:

Sl.No	Heads	Amount in Rs.
1.	Loss of dependency	3,36,000
2.	Love and Affection	30,000
3.	Funeral expenses	15,000
	Total	3,81,000

3. The deceased was a Managing Partner at M/s.S.K.Digital Video and was aged 24 years at the time of the accident, which was caused by a vehicle insured with the second respondent on 22.11.2008. In the claim petition, the appellants/claimants who are his dependents have pleaded that he was earning Rs.30,000/- per month at the time of the accident, however since no documentary evidence has been produced by the appellants/claimants before the Tribunal, the notional monthly income of the deceased was fixed at Rs.7,000/- which includes future prospects. The accident happened in the year 2008, therefore the assessment of notional monthly income of the deceased made by the Tribunal cannot be considered to be inadequate and it is a just assessment. However, the Tribunal while assessing the loss of dependency has erroneously adopted wrong multiplier of 8 by erroneously considering the age of the mother of the deceased instead of considering the age of the deceased. The deceased was aged 24 years at the time of the accident and therefore the Tribunal ought to have adopted 18 multiplier instead of 8 erroneously adopted by it. Accordingly, the multiplier is modified by this Court to 18. The Tribunal has deducted 50% towards personal expenses of the deceased as the deceased was a bachelor at the time of the accident. Since the multiplier to be adopted is 18, loss of dependency is reassessed by this Court at Rs.7,56,000 (Rs.7,000/- x 1/2 x 12 x 18) instead of Rs.3,36,000/- (Rs.7000/- x 1/2 x 12 x 8) erroneously fixed by the Tribunal.

4. The Tribunal has awarded a sum of Rs.30,000/- towards love and affection to the first appellant / first claimant who is the mother of the deceased instead of Rs.40,000/- which ought to have been awarded to her as per the settled law. Accordingly, this Court enhances the compensation towards love and affection to Rs.40,000/- instead of Rs.30,000/- erroneously fixed by the Tribunal. The Tribunal has awarded compensation of Rs.15,000/- towards funeral expenses which is a correct assessment and the



same is confirmed by this Court. However, the Tribunal has failed to award any compensation towards loss of estate, which the appellants/claimants are legally entitled to as per the settled law. In accordance with the settled law, this Court fixes the compensation towards loss of estate at Rs.15,000/-.

5. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned Award is enhanced to Rs.8,26,000/- instead of Rs.3,81,000/- erroneously fixed by the Tribunal. The details of the compensation now awarded by this Court is detailed hereunder:

Sl No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or set aside or granted or reduced (Rs.)
1.	Loss of dependency	3,36,000	7,56,000	Enhanced
2.	Love and Affection	30,000	40,000	Enhanced
3.	Funeral expenses	15,000	15,000	Confirmed
4.	Loss of estate	---	15,000	Awarded
	Total	3,81,000	8,26,000	Enhanced by Rs.4,45,000/-

6. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.3,81,000/- awarded by the Tribunal is hereby enhanced to Rs.8,26,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. As regards apportionment of compensation amount, the findings of the Tribunal directing the second respondent insurance company to pay the entire compensation amount to the first appellant / first claimant is concerned, the same is confirmed by this Court. The second respondent / insurance company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.2253 of 2009, on the file of the Motor Accidents Claims Tribunal, Special Sub Judge I (dealing with MCOP cases), Chennai. On such deposit, the first appellant/first claimant is permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount, if any, already withdrawn by making



necessary application before the Tribunal. The appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced compensation now determined by this Court. No costs.

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Sd/-
Assistant Registrar(CS-V)

// True Copy //

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
Special Sub Judge I
(dealing with MCOP cases), Chennai.
2. The Section Officer,
VR Section, High Court, Madras.

C.M.A.No.3254 of 2014

JPL(CO)
CB(22/03/2022)