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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2936 of 2021

Chandra

.. Appellant/Petitioner

Vs.

1. K.Dhanalakshmi Kannappan

2. Reliance General Insurance Co. Ltd.,
Reliance House, No.66,
Haddows Road, Chennai - 6.

.. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to set aside the judgment and decree dated 07.01.2021, made in M.C.O.P.No.5396 of 2016, on the file of the Motor Accidents Claims Tribunal, Special Sub Court I, Court of Small Causes, Chennai.

For Appellant : Mr.Amar Dineshbhai Pandiya

For Respondent 2: Mr.K.Vinod

For Respondent 1: Exparte

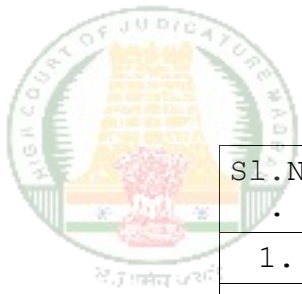
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J U D G M E N T

(The case has been heard through video conference)

This appeal has been filed by the claimant seeking enhancement of compensation under the impugned Award dated 07.01.2021, passed by the Motor Accidents Claims Tribunal, Special Sub Court I, Court of Small Causes, Chennai, in M.C.O.P.No.5396 of 2016.

2. The appellant/claimant 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:



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Sl.No	Heads	Amount in Rs.
1.	Loss of dependency	15,12,000
2.	Loss of Love and Affection	25,000
3.	Loss of Estate	15,000
4.	Transport charges	5,000
5.	Funeral expenses	15,000
	Total	15,72,000
	10% contributory negligence	14,14,800

3. The appellant/claimant is the mother of the deceased. The cause of the accident resulting in the death of N.Divya, the daughter of the appellant/claimant has not been disputed by the respondents. The only issue that arises for consideration in this appeal is whether the appellant/claimant is entitled for enhancement of compensation.

4. The deceased N.Divya was aged 17 years and she is a first year B.Com student at the time of the accident which happened on 29.07.2016, which resulted in her death. The Tribunal has assessed the notional monthly income of the deceased at Rs.10,000/-. This Court is of the considered view that the Tribunal has not taken into consideration the year of the accident and the educational qualification of the deceased which it ought to have considered and fixed the notional monthly income at a higher sum. After giving due consideration to the educational qualification of the deceased as well as the year of the accident, this Court enhances the notional monthly income of the deceased to Rs.12,500/- instead of Rs.10,000/- erroneously fixed by the Tribunal. The Tribunal has correctly fixed the loss of future prospects for the appellant/claimant at 40% and the same is confirmed by this Court. Since the Tribunal has also rightly adopted the multiplier of 18 since the deceased was aged 17 years at the time of the accident the same is also confirmed by this Court. The Tribunal has also correctly deducted 50% towards personal expenses of the deceased since the deceased was a bachelorette at the time of the accident and the same is also confirmed by this Court. Since the notional monthly income of the deceased has been enhanced to Rs.12,500/- by this Court, the loss of dependency is reassessed by this Court at Rs.18,90,000/- (Rs.12,500 + Rs.5000 x 12 x 18 x 1/2) instead of Rs.15,12,000/- erroneously awarded by the Tribunal.



5. In so far as the compensation awarded by the Tribunal under various heads namely loss of estate at Rs.15,000/-, transport expenses at Rs.5,000/- and funeral expenses at Rs.15,000/- is concerned, the same cannot be considered to be inadequate as alleged by the appellant/claimant and therefore the same is confirmed by this Court. So far as loss of love and affection is concerned the Tribunal as erroneously fixed the compensation at Rs.25,000/- and in accordance with the settled law this Court enhances the same to Rs.40,000/-.

6. The Tribunal has fixed 10% contributory negligence on the part of the deceased on the ground that the deceased has travelled in a motorcycle along with two others exceeding the permissible limit. This Court is in agreement with the findings of the Tribunal and the contributory negligence fixed by the Tribunal on the part of the deceased at 10% is confirmed by this Court.

7. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned Award is enhanced to Rs.17,68,500/- instead of Rs.14,14,800/- 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	15,12,000	18,90,000	Enhanced
2.	Loss of Love and Affection	25,000	40,000	Enhanced
3.	Loss of Estate	15,000	15,000	Confirmed
4.	Transport charges	5,000	5,000	Confirmed
5.	Funeral expenses	15,000	15,000	Confirmed
	Total	15,72,000	19,65,000	
	10% Contributory negligence	14,14,800	17,68,500	Enhanced by Rs.3,53,700/-

8. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation of Rs.14,14,800/- awarded by the Tribunal is hereby enhanced to Rs.17,68,500/- together with interest at the rate of 7.5% per annum from the date of claim



petition till the date of deposit. 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.5396 of 2016, on the file of the Motor Accidents Claims Tribunal, Special Sub Court I, Court of Small Causes, Chennai. On such deposit, the appellant/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 appellant/claimant is directed to pay necessary Court fee, if any, on the enhanced compensation now determined by this Court. No costs.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
Special Sub Court I, Court of Small Causes, Chennai.
2. The Section Officer,
VR Section, High Court, Madras.

+lcc to Mr.Amar D Pandiya, Advocate SR.No.55884

+lcc to Mrs.Elveera Ravindran, Advocate SR.No.55886

C.M.A.No.2936 of 2021

SJ(CO)

CB(25/11/2021)