



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.2962 of 2021

1. S. Selvi
2. M. Manju
3. A. Kumar
4. A. Renuga

... Appellants/Petitioners

vs.

1. K. Subramanian

2. The New India Assurance Company Ltd.,
Motor Third Party Claims Hub,
No.223, Bombay Mutual Building,
6th Floor, NSC Bose Road,
Chennai - 600 001.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the order made in M.C.O.P. No. 5188 of 2018, dated 19.04.2021, on the file of the Motor Accident Claims Tribunal, at Chennai (In the III Court of Small Causes, at Chennai), III Judge, (F.A.C.)

For Appellants : Mr. Amar Dineshbhai Pandiya

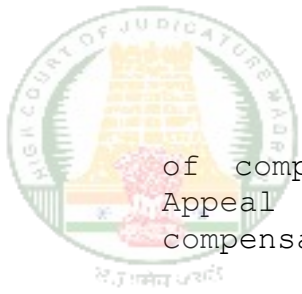
For Respondents : Mr. J. Chandran

for R2

JUDGMENT

This Appeal has been filed by the Claimants seeking enhancement of compensation under the impugned award dated 19.04.2021 passed by the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai, III Judge (F.A.C.) in M.C.O.P. No. 5188 of 2018.

2. The Appellants/ Claimants unsatisfied with the quantum



WEB COPY

of compensation awarded by the Tribunal have preferred this Appeal seeking for enhancement of compensation. The details of compensation awarded by the Tribunal are as follows :

Heads	Awarded by the Tribunal in Rs.
Loss of Dependency (10,000 - $\frac{1}{3} \times 12 \times 7$)	5,60,000.28
Loss of Estate	15,000
Transport Expenditure (Ambulance)	10,000
Funeral expenses	15,000
Loss of love and affection to the petitioner 1 to 3 Rs.40,000/- each	1,20,000
Loss of consortium to 1st petitioner	40,000
Total	7,60,000.28
Rounded off	7,60,000

3. Heard Mr.Amar Dineshbhai Pandiya, learned counsel for the appellants / claimants and Mr.J.Chandran, learned counsel for the second respondent / Insurance Company.

4. This Court has perused and examined the impugned award as well as the materials and evidence available on record before the Tribunal.

5. The deceased K.Arumugam was aged 62 years and was Proprietor of Kumar Lock Works, Guduvanchery and in the claim petition the Appellants/ Claimants, who are his dependants have pleaded that the deceased was earning Rs.20,000/- per month. The accident happened on 19.07.2018. The cause of the accident has not been disputed by the respondents. The issue that arises for consideration in this appeal are as follows :

a. whether the quantum of compensation fixed by the Tribunal is a just compensation or not?

b. Whether the appellants/ claimants are entitled for enhancement of compensation?

6. Since the accident happened in the year 2018, the assessment of the notional monthly income of the deceased at Rs.10,000/- is low as the deceased was a Proprietor of M/s. Kumar Lock Works, Guduvanchery and in the claim petition the Appellants/ claimants have pleaded that the deceased was earning



Rs.20,000/- per month. Even though no documentary evidence was produced by the Appellants/ claimants to substantiate the monthly income of the deceased, this Court is of the considered view that the monthly income fixed by the Tribunal has to be enhanced to Rs.12,000/- instead of Rs. 10,000/-. Accordingly, this Court enhances the notional monthly income of the deceased to Rs.12,000/- instead of Rs.10,000/- fixed by the Tribunal.

7. The Appellants/ claimants who are the wife and three children of the deceased are four in number. However, the Tribunal has erroneously deducted 1/3rd towards personal expenses of the deceased instead of deducting 1/4th. Accordingly, the same is modified by this Court to 1/4th.

8. Thus, the loss of dependency is re-assessed by this Court at Rs.7,56,000/- instead of Rs.5,60,000.28/- determined by the Tribunal ($\text{Rs.12,000} - \frac{1}{4} \times 12 \times 7 = \text{Rs.7,56,000/-}$).

9. Insofar as the compensation awarded by the Tribunal under various other heads viz., loss of estate at Rs.15,000/-, transportation at Rs.10,000/-, funeral expenses at Rs.15,000/-, loss of love and affection to the Appellants/ claimants at Rs.40,000/- each total amounting to Rs.1,20,000/- and loss of consortium to the first Appellant / first claimant at Rs.40,000/- are concerned, the same cannot be considered to be inadequate as alleged by the Appellants/ claimants. Accordingly, the same is confirmed by this Court. Excepting for modification towards compensation for loss of dependency, the compensation awarded by the Tribunal under other heads is confirmed by this Court.

10. For the foregoing reasons, the award of the Tribunal is hereby enhanced in the following manner :

Heads	Awarded by the Tribunal in Rs.	Awarded by this Court in Rs.
Loss of Dependency * Rs.10,000/- - 3,333.33 = Rs.6,666.67 x 12 x 7= # Rs.12,000/- - 3000 x 12 x 7 = Rs.7,56,000	5,60,000.28 *	7,56,000 #
Loss of Estate	15,000.00	15,000
Transport Expenditure (Ambulance)	10,000.00	10,000



WEB COPY

Heads	Awarded by the Tribunal in Rs.	Awarded by this Court in Rs.
Funeral expenses	15,000.00	15,000
Loss of love and affection to the petitioner 1 to 3 Rs.40,000/- each	1,20,000.00	1,20,000
Loss of consortium to 1st petitioner	40,000.00	40,000
Total	7,60,000.28	9,56,000
Rounded off	7,60,000.00	9,56,000

11. In the result, the appeal filed by the appellants / claimants, stands partly allowed by enhancing the compensation from Rs.7,60,000/- to Rs.9,56,000/-, as indicated above. No costs.

12. The second respondent / Insurance Company is directed to deposit the entire award amount as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of MCOP No.5188 of 2018 on the file of the Motor Accidents Claims Tribunal/ III Court of Small Causes at Chennai, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellants /claimants as per the same ratio of apportionment made by the Tribunal through RTGS, within a period of two weeks thereafter. Necessary Court fee, if any has to be paid by the appellants / claimants before receiving the copy of this Judgment.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal,
The III Judge, (FAC)
III Court of Small Causes,
Chennai.



Copy to

The Section Officer,
V.R. Section,
Madras High Court.

+1cc to Mr.J.Chandran, Advocate SR.No.54344
+1cc to Mr.Amar, Advocate SR.No.53588

C.M.A. No.2962 of 2021

AK II(CO)
GN(23/11/2021)