



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3231 of 2019

1.Priya

2.Minor Vinayagamoorthy (4 months)

S/o.(Late) Hariprakash,

Rep by his next friend, guardian and
Mother Priya.

3.Prema

... Appellants/Claimants

Vs.

1.T.M.Kandasamy

2.The United India Insurance Co., Ltd,

Divisional Office 2, 1st Floor,

Perumanur Main Road, Perumanur,

Salem - 636 007.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 16.04.2019 made in M.C.O.P.No.2165 of 2016, on the file of the Motor Accidents Claims Tribunal, Special District Judge, Salem.

For Appellants : Mr.T.S.Arthanareeswaran

For Respondents: Mr.J.Chandran for R2
R1 died

JUDGMENT

The claimants are the appellant in this appeal and is aggrieved by the impugned judgment and decree dated 16.04.2019 passed by the Motor Accidents Claims Tribunal Special District Judge, Salem in M.C.O.P.No.2165 of 2016.

2. The appellant seek for enhancement of compensation due to the death of the deceased. The claimants are the wife of the deceased Hariprakash, minor daughter aged about 4 months and mother of the deceased aged about 70 years at the time of claim petition in the year 2016.



3. The claimants have declared the monthly income of the deceased as Rs.30,000/- per month. However, the Tribunal has awarded a sum of Rs.21,50,400/- towards loss of dependency, by considering the notional income of Rs.12,000/- per month of the deceased ignoring Exs.3, 4 and 5 which are the details of the income, deceased who has been stated to a dealer in buying and selling of Computer Weighing Scales. In my view, the Tribunal has considered a meagre notional income of Rs.12,000/- per month. It should have at least Rs.15,000/- per month as the notional income of the deceased for awarding the aforesaid compensation. Under these circumstances, the amount awarded by the Tribunal is re-computed as follows:-

S1 .N o.	Heads of Compensation	Amount Awarded by the Tribunal	Amount awarded by this Court	Award confirmed or enhanced or reduced or granted or set aside
1.	Loss of dependency	Rs.21,50,400/-	Rs.30,24,000 /- (15,000 + 40% x $\frac{3}{4}$ x 12 x 16)	Enhanced
2.	Medical Expenses	Rs.14,36,000/-	Rs.14,36,000 /-	Confirmed
3.	Loss of losing spouse	Rs.40,000/-	Rs.40,000/-	Confirmed
4.	Loss of consortium	Rs.40,000/-	Rs.40,000/-	Confirmed
5.	Loss of estate	Rs.15,000/-	Rs.30,000/-	Enhanced
	Total	Rs.36,56,400/-	Rs.45,70,000 /-	Enhanced by Rs.9,13,600/-

4. The 2nd respondent/Insurance Company is directed to deposit the compensation awarded by the Tribunal, together with interest at 7.5% per annum from the date of the claim petition till the date of such deposit, less any amount already deposited by it, within a period of six weeks from the date of receipt of the copy of this Judgment.

5. On such deposit, the 1st and 3rd appellants/claimants are entitled to withdraw their amount together with interest as



directed by the Tribunal, by filing suitable application before Tribunal.

6. Since the 2nd appellant/2nd claimant is stated to be minor at the time of filing of the claim petition, his share shall be deposited in an interest bearing account and the interest shall be allowed to be withdrawn by his mother/1st appellant for his benefit till he attains the age of majority. On attaining the age of majority, the 2nd appellant/2nd claimant may also file appropriate application before the Tribunal for withdrawing his share of compensation.

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

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1. The Motor Accidents Claims Tribunal,
Special District Judge, Salem.

2. The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr. J. Chandran, Advocate, S.R.No.25098

C.M.A.No.3231 of 2019

LN(CO)
CB(26/10/2021)