



C.M.A.No.2545 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 21.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2545 of 2022

and

C.M.P.No.19769 of 2022

Sundaramoorthy

... Appellant/Respondent

Vs.

1.Velmurugan

2,Dhavamani

... Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award and Decree dated 30.08.2018 in M.C.O.P.No.1511 of 2014 on the file of the learned Principal District Judge, Motor Accidents Claims Tribunal, Cuddalore.



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For Appellant : Mr.R.Varadha Kamaraj

For Respondents : Ms.Ramya V. Rao
for R1 and R2

JUDGMENT

The respondent before the Tribunal is the appellant before this Court and he is the owner of the offending vehicle.

2.The facts in brief are as follows:

One Palaniammal, the mother of the 1st and 2nd respondents herein had met with an accident on 20.02.2014, as a result of which, she had died. The deceased was a pedestrian and she was hit by the appellant's car. The respondent had claimed that she was earning a monthly income of Rs.7,500/- as Coolie and as a milk vendor. The Tribunal had fixed the monthly income at Rs.5,000/- and deducted 1/3rd towards personal expenses and adopted a multiplier of 7.



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3.The appellant herein is aggrieved by the fact that the claimants are not the dependents of the deceased as they are aged 40 and 34 years, respectively and it was further argued that the deduction for personal expenses should be 50% and not $1/3^{\text{rd}}$ of the income. That apart, the appellants had also questioned the interest that had been granted as 8% instead of 7.5%.

4.The contention of the appellant that 50% has to be deducted from the total income towards personal expenses has to necessarily be accepted since the claimants cannot be termed to be the dependents of the deceased Palaniammal. Therefore, the amount under the head of loss of income would come to a sum of Rs.2,10,000/- [$\text{Rs.5,000} \times 12 \times 7 \times 1/3 = \text{Rs.2.10,000/-}$]. Further, the interest has to be reduced to 7.5% instead of 8% per annum. Accordingly, they are entitled to interest for the compensation amount @7.5% per annum. In all other respects, the Award remains unaltered. Therefore, taking into consideration the above aspects, the modified amount is as follows:



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Loss of income :Rs.2,10,000/-

Funeral expenses and
loss of love and affection :Rs. 30,000/-

Total :Rs.2,40,000/-

5.This Civil Miscellaneous Appeal is partly allowed. The compensation of Rs.3,10,000/- awarded by the Tribunal is hereby reduced to a sum of Rs.2,40,000/- together with interest @ 7.5 % per annum from the date of petition till the date of deposit. The appellant/respondent is directed to deposit the entire amount, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.1511 of 2014 on the file of the learned Principal District Judge, Motor Accidents Claims Tribunal, Cuddalore, within a period of four weeks from the date of receipt of a copy of this Judgment, if not deposited earlier. On such deposit, the claimants are permitted to withdraw the entire award amount with



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proportionate accrued interest and costs as apportioned by the Tribunal
by making necessary applications.

The claimants are directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimants. No costs. Consequently, connected Miscellaneous Petition is closed.

21.11.2022

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

Note to Offie:

Issue order copy on 23.11.2022.

To
The Principal District Judge,
Motor Accidents Claims Tribunal,
Cuddalore.

P.T. ASHA, J,



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