



C.M.A.No.3728 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.3728 of 2012

1.P.C.Vayu Nandini
2.P.C.Geetha Nandagopal
3.P.C.Vaishnavi (Minor)
(Represented by her mother and natural
guardian P.C.Geetha Nandagopal)

... Appellant

vs.

1.G.Balagurunathan

2.M/s.A.N.Srinivasa Nadar & Sons,
13-A, Kuppamani Thope,
Red Hills,
Chennai- 600 052.

3.M/s.United India Insurance Co. Ltd.,
G.T.Branch,
No.94, Govindappa Naicken Street,
Chennai-600 001.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the fair order and decretal order dated 09.10.2003 and made in M.C.O.P.No.1614 of 1998 on the file of the Motor



C.M.A.No.3728 of 2012

Accident Claims Tribunal, II Judge, Small Causes Court, Chennai.

WEB COPY

For Appellants : Mr.A.C.Kumaragurubaran
For Respondents : Mr.M.J.Vijaya Raaghavan [R3]
R1 – Died
R2 – Served – No Appearance

JUDGMENT

The claimants have filed the above appeal seeking enhancement of the award passed by the Tribunal below.

2. Considering the fact that the appeal is only challenging the quantum, I am not traversing through the intricate details of the case. Suffice it to state that the petitioners before the claims Tribunal had filed the claim petition seeking compensation for the death of one Nandagopal, the father of the petitioners 1 and 2 and husband of the 3rd petitioner and father of the 4th petitioner, minor (the 1st petitioner died pending the claim petition).

3. The Tribunal on going through the records had awarded a sum of Rs.4,30,000/- as compensation. The petitioners are aggrieved by the fact that the Tribunal has deducted 2/3rd towards personal expenses and had failed to award any amount under the head of pain and suffering and



damage to clothing and loss of income.

WEB COPY

4. The learned counsel for the Insurance Company would admit that as against the deduction of $1/3^{\text{rd}}$, the Tribunal had deducted $2/3^{\text{rd}}$ which is erroneous. He would however contend that the amounts granted under the other heads are reasonable and have to be confirmed.

5. Admittedly, the Tribunal had taken the notional income at Rs.6,000/-. Instead of deducting $1/3^{\text{rd}}$ towards personal expenses, the Tribunal had deducted $2/3^{\text{rd}}$. The amount under the head of loss of income would stand increased by deducting only $1/3^{\text{rd}}$ from out of the monthly income of the deceased. If $1/3^{\text{rd}}$ is deducted from Rs.6,000/-, the monthly income would be a sum of Rs.4,000/-. The reworked compensation would be as follows: Rs.4,000/- X 12 X 17 = Rs.8,16,000/-. The petitioners are awarded a sum of Rs.1,500/- under the head of damage to clothes and a sum of Rs.5,000/- towards Funeral Expenses. Further, a sum of Rs.10,000/- granted towards loss of income is increased to Rs.20,000/-. Therefore, the Compensation awarded by the Tribunal is reworked as below:



C.M.A.No.3728 of 2012

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed or enhanced or granted or reduced</i>
1	Loss of Income	Rs.4,08,000/-	Rs.8,16,000/-	Enhanced
2	Damage to Clothes	NIL	Rs. 1,500/-	Granted
3	Funeral Expenses	NIL	Rs. 5,000/-	Granted
4	Love & Affection	Rs. 10,000/-	Rs. 20,000/-	Enhanced
5	Consortium	Rs. 10,000/-	Rs. 10,000/-	Confirmed
6	Damage to Scooter	Rs. 2,000/-	NIL	Rejected
	TOTAL	Rs.4,30,000/-	Rs.8,52,500/-	

6. In the result, this Civil Miscellaneous Appeal is allowed and the compensation of Rs.4,30,000/- awarded by the Tribunal is hereby Enhanced to a sum of **Rs.8,52,500/-**. Therefore, the 3rd respondent / Insurance Company is directed to deposit the enhanced amount of **Rs.8,52,500/-** to the credit of M.C.O.P.No.1614 of 1998 on the file of the Motor Accident Claims Tribunal, II Judge, Small Causes Court, Chennai together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs, less, the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this Judgement. The said



C.M.A.No.3728 of 2012

amount shall be apportioned amongst the claimants as per the Award of the

Tribunal. On such deposit being made, the claimants are permitted to

withdraw the award amount, along with accrued proportionate interest and

costs as awarded by the Tribunal, less, the amount, if any already

withdrawn, by filing necessary application before the Tribunal. The share

of the minor shall be deposited in any one of the nationalized bank till she

attain majority and the 2nd appellant, P.C.Geetha Nandagopal shall be

permitted to withdraw quarterly interest from the said amount. The

claimants are directed to pay the Court fee for the enhanced compensation

amount, if required. The Tribunal below shall not disburse the enhanced

amount till such time as the certified copy showing proof of payment of

Court fee has been produced by the claimants. There shall be no order as to

costs in the present appeal.

15.11.2022

Index : Yes/No

Speaking / Non-speaking order

ssn



WEB COPY



C.M.A.No.3728 of 2012

P.T.ASHA, J.,

ssn

To

1. Motor Accident Claims Tribunal,
II Judge, Small Causes Court,
Chennai.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

C.M.A.No.3728 of 2012

15.11.2022