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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.M.A.NO.473 OF 2022

1. P.Shanthi

2. P.Manikandan

... Appellants/Petitioners

vs.

1. A.Bharathikumar

2. The Divisional Manager,
National Insurance Company Ltd.,
D.No 110 JN Street,
Puducherry 605 001.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.1419 of 2019 dated 09.09.2021 on the file of the Motor Accident Claims Tribunal / Principal District Judge at Cuddalore.

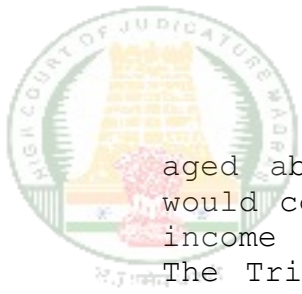
For Appellant : Mrs.Ramya V.Rao

For Respondents : Mr.M.Krishnamoorthy[R2]
R1-Served - No Appearance

JUDGMENT

The appellants/claimants have filed this appeal seeking enhancement of the award passed by the Motor Accident Claims Tribunal / Principal District Judge at Cuddalore in M.C.O.P.No.1419 of 2019 dated 09.09.2021.

2. The claim petition had been filed by the appellants herein seeking compensation for the death of one Manivannan, who is the son of the 1st appellant and the brother of the 2nd appellant, in a road traffic accident that occurred on 02.06.2019. The said Manivannan is stated to be a Car driver and



aged about 25 years at the time of accident. The appellants would contend that the deceased Manivannan was earning a monthly income of Rs.25,000/-, the same was proved by the appellants. The Tribunal below after holding negligence upon the driver of the 1st respondent's ambulance which had hit the said Manivannan, who was walking on the road had awarded compensation as detailed below:

S.No.	Description	Amount awarded by Tribunal (Rs)
1	Loss of Income [Rs.16,800/- x 12 x 50% x 17]	Rs.17,13,600/-
2	Loss of Love and Affection	Rs. 10,000/-
3	Funeral Expenses	Rs. 15,000/-
4	Loss of Estate	Rs. 15,000/-
	TOTAL	Rs.17,53,600/-
	Rounded of to	Rs.17,54,000/-

3. The Tribunal below had adopted the notional income of Rs.12,000/-. Aggrieved by the award insofar as it related to the pecuniary loss and the compensation under the head of Loss of Love and Affection, the appellants/claimants are before this Court.

4. Heard the learned counsel on either side and perused the records.

5. The learned counsel for the 2nd respondent / Insurance Company would submit that though the appellants/claimants have challenged the award, however, the rate of interest granted has to be reduced to 7.5% as against 9% ordered by the Tribunal.

6. Considering the fact that the accident has taken place in the sixth month of 2019, the notional income can be increased to a sum of Rs.14,000/- to which 40% has to be added for future prospects. Therefore, notional income would be a sum of Rs.19,600/-. 50% has to be deducted towards personal expenses. Therefore, the amount under the head of Loss of Income would be Rs.19,600/- X 12 X 17 X 50% = Rs.19,99,200/-. The Tribunal has awarded a sum of Rs.10,000/- towards loss of Love and Affection. The claimants are the mother and brother of the deceased Manivannan, each are entitled to a sum of Rs.20,000/- under this head. As pointed out by the learned counsel for the Insurance Company, the interest has to be reduced to 7.5%. Therefore, the modified award would be as follows:



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S.No.	Description	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1	Loss of Income [Rs.19,600/- X 12 X 17 X 50%]	Rs.19,99,200/-	Enhanced
2	Loss of Love and Affection	Rs. 40,000/-	Enhanced
3	Funeral Expenses	Rs. 15,000/-	Confirmed
4	Loss of Estate	Rs. 15,000/-	Confirmed
	TOTAL	Rs.20,69,200/-	

7. In the result, this Civil Miscellaneous Appeal is allowed and the compensation of Rs.17,54,000/- awarded by the Tribunal is hereby Enhanced to a sum of Rs.20,69,200/-. The Tribunal had ordered pay and recovery since there is a violation of the policy conditions. Therefore, the 2nd respondent / Insurance Company is directed to deposit the enhanced amount of Rs.20,69,200/- to the credit of M.C.O.P.No.1419 of 2019 on the file of the Motor Accident Claims Tribunal / Principal District Judge at Cuddalore, 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 six weeks from the date of receipt of a copy of this Judgement and recover the same from the 1st respondent. On such deposit being made, the claimants are permitted to withdraw the amount now determined by this Court, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. 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. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

ssn



To

1. The Motor Accident Claims Tribunal,
Principal District Judge,
Cuddalore.

2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

+2ccs to M/s.Ramya V.Rao, Advocate, S.R.No.23801

C.M.A.No.473 of 2022

GMR (CO)
RLP (17/05/2022)