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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.404 of 2022

1.Mayavathi
2.K.Manikandan
3.Minor K.Ramani
minor rep.by Natural Guardian
Mother Mayavathi 1st Petitioner herein.

... Appellants/ Petitioners

-Vs.-

1.B.Asokan
2.The Divisional Manager,
The New India Assurance Co. Ltd.,
Divisional Office, No.1, Bharathi Road,
Cuddalore - 607 001.

... 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.205 of 2020 dated 30.11.2021 on the file of the Motor Accident Claims Tribunal / 1st Additional District & Sessions Judge, Cuddalore.

For Appellants	:	M/s.Ramya V.Rao
For R1	:	Not ready in notice
For R2	:	Mr.J.Chandran

J U D G M E N T

The claimants have filed this appeal seeking enhancement of compensation of Rs.6,99,500/- granted by the I Additional District and Sessions Judge, Cuddalore, Motor Accident Claims Tribunal, Cuddalore in M.C.O.P.No.205 of 2020.

2. It is the case of the claimants that the pecuniary loss has not been properly assessed by the Tribunal and therefore, the award has to be set aside and the compensation be enhanced.

3. The claimants are the wife, son and minor daughter of the deceased Kanagaraj. The deceased Kanagaraj had met with a road accident on 11.01.202. When he was walking on Panruti to Salem Main Road, near Anguchettipalayam Happy Kids school, the first respondent's Ford Card, Registration No.PY-05-D-9757 driven in a rash and negligent manner, hit the deceased, as a result of which, he was tossed up in the air, as a result of



4. The Tribunal, after hearing the parties and perusing the evidence, had arrived at the following compensation:

Challenging the same, the claimants are before this Court.

6. It is the case of the claimants that the said Kanagaraj at the time of his death was 60 years old and was earning a monthly income of Rs.25,000/- per month. However, the Tribunal, in the absence of proof and evidence, has fixed the monthly notional income at a sum of Rs.7,500/- and added 10% towards future prospects (Rs.7,500 + Rs.750 = Rs.8,250). Considering the age of the deceased, the Tribunal has adopted a multiplier of 9 and arrived at a sum of Rs.8,91,000/-, out of which, 1/3 was deducted towards his personal expenses and ultimately, awarded a sum of Rs.5,94,000/-. Considering the age and occupation of the deceased and the date of the accident, the notional income of the deceased can be safely fixed at Rs.12,000/-, to which, 10% is added as future prospects. Therefore, the monthly notional income would be a sum of Rs.13,200 and the multiplier of 9 has to be adopted, which would work out to Rs.14,25,600 (Rs.13,200 x 12 x 9), out of which, 1/3 has to be deducted towards his personal expenses. Therefore, a sum of Rs.9,50,400/- (Rs.14,25,600 - 1/3) is fixed under the head of Loss of Pecuniary benefits. It is seen that under the head of loss of Love and Affection, only a sum of Rs.30,000/- has been granted. Therefore, a sum of Rs.58,000/- also has to be added towards Filial Consortium. However, it is noticed that no amount was awarded under the head of Loss to Estate, which omission is being remedied now. Accordingly, a sum of Rs.15,000/- is awarded under the head of Loss to Estate. Therefore, the revised compensation under the various heads is herein below.

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Heads	Amount in Rs.
Loss of Consortium	44,000
Loss of Love and Affection	88,000
Transport Expenses	15,000
Funeral Expenses	16,500
Loss to Estate	15,000
Total	11,28,900

7. The appeal is partly allowed and the Award of the Tribunal is modified, enhancing the compensation amount from Rs.6,99,500/- to Rs.11,28,900-. The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.205 of 2020 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw the award amount, along with accrued interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn, by filing necessary application before the Tribunal. As far as the share of the minor's share is concerned, the same shall be deposited in any of the Nationalized Bank, in the interest bearing Fixed Deposit, till the minor attains majority and the natural guardian of the minor, being the first appellant herein, is permitted to withdraw the accrued interest thereon once in six months. 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. In other respects, the Award of the Tribunal is hereby confirmed. There shall be no order as to costs in the present appeal.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

srn

To

- 1.The Motor Accident Claims Tribunal,
1st Additional District & Sessions Judge,Cuddalore.
 - 2.The Section Officer, V.R.Section,
High Court of Madras, Chennai.
- +2 ccs to M/s.Ramya V.Rao, Advocate Sr.NO.21116
+1 cc to Mr.J.Chandran, Advocate Sr.NO. 21304

C.M.A.No.404 of 2022

NRL (CO)

A.SK(20/04/2022)

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