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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.410 of 2022

1.C.Deepa

2.A.Uthirambal

3.A.Vijayalakshmi

...Appellants/Petitioners

-Vs.-

1. K.Selventhiran

2. The Divisional Manager,
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, praying to enhance the compensation in M.C.O.P.No.94 of 2020 dated 30.11.2021 on the file of the Motor Accident Claims Tribunal / 1st Additional District & Sessions Judge, Cuddalore.

For Appellant : 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 wife and parents of the deceased Chinnarasu had filed a claim petition on the file of the I Additional District and Sessions Judge, Motor Accident Claims Tribunal, Cuddalore, in M.C.O.P.No.94 of 2020, seeking compensation for the death of the said Chinnarasu in a road accident that had occurred on 28.10.2019.



2.The claimants had sought compensation of a sum of Rs.50,00,000/-. The first claimant and the deceased Chinnarasu had got married, just two months prior to his death. It is their case that on 28.10.2019 at about 3.30 p.m, when the deceased was riding his TVS Victor Motorcycle, bearing Registration No.TN-91-H-0922 from West to East on the Bhuvanagiri to Maruthu Road, the first respondent's tractor, bearing Registration No.TN-29-BB-5896 came from behind at a high speed, driven rashly and negligently by its driver and hit the rear of the motorcycle, in which the deceased was travelling. As a result of the impact, the deceased was thrown off his motor cycle and fatally injured and he died on the spot.

3.The first respondent remained ex-parte before the Tribunal. The second respondent-Insurance Company had filed a counter denying both the negligence as well as liability and also stated that the deceased was not in possession of valid driving licence and was therefore, liable for the accident. They had also stated that the tractor did not possess the valid permit, fitness and registration certificate, etc. They would further contend that the claim was highly excessive.

4.The Tribunal, on considering the oral and documentary evidence, held negligence upon driver of the tractor and ultimately, awarded a compensation of Rs.16,28,828/- to the claimants.

Heads	Amount in Rs.
Loss of Income	15,23,328
Loss of Consortium	44,000
Loss of love and affection 10,000x3	30,000
Transport Expenses	15,000
Funeral Expenses	16,500
Total	16,28,828

Aggrieved by the said Award, the claimants have filed the present appeal.

5.Heard the learned counsel for the appellants and the learned counsel for the second respondent and perused materials available on record.

6.The Tribunal had fixed the notional income of Rs.8,500/-, since the claimants, who had contended that the deceased was



working as a Mason Maistry under S.Mailavelu, Engineer and Contractor, Puducherry, had not produced any document to prove the same. The deceased was 31 years old at the time of accident and the accident has taken place in the year 2019. Therefore, considering the age and year of the accident, the notional income has to be fixed at a sum of Rs.12,000/- and 40% has to be added towards future prospects. Therefore, the notional income would be Rs.12,000 + 4,800 = 16,800. Since the deceased was 31 years old, a multiplier of 16 has to be adopted. Therefore, the amount under the head of loss of pecuniary benefits would be Rs.16,800 x 12 x 16 = 32,25,600, out of which, 1/3 has to be deducted towards personal expenses of the deceased, which would amount to a sum of Rs.10,75,200/-. Therefore, the amount due under the head of Loss of Pecuniary benefits would be Rs.21,50,400/-. No amounts have been granted under head of Loss of Estate. Therefore, a sum of Rs.15,000/- has been given under the head of Loss of Estate. In the light of the above, the revised Award would be as follows:-

Heads	Amount in Rs.
Loss of Pecuniary benefits	21,50,400
Loss of Consortium	44,000
Loss of love and affection 10,000x3	88,000
Transport Expenses	15,000
Funeral Expenses	16,500
Loss of Estate	15,000
Total	23,28,900

7.The appeal is partly allowed and the Award of the Tribunal is modified, enhancing the compensation amount from Rs.16,28,828/- to Rs.23,28,900/-. The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.94 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. 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.

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Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

srn

To

The Motor Accidents Claims Tribunal,
The I Additional District & Sessions Judge,
Cuddalore.

Copy To

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

+2cc to M/s.Ramya V. Rao, Advocate, S.R.No.21115

+1cc to Mr.J.Chandran, Advocate, S.R.No.21305

C.M.A.No.410 of 2022

GMR(CO)
RGA(22/04/2022)