



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.11.2021

PRONOUNCED ON: 02.02.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

C.M.A.No.1571 of 2018

1.R.Sumathi

2.Minor Yugender

3.Minor Badri Narayanan

[Minor Appellants 2 and 3 are represented by
their guardian / mother viz., the 1st appellant herein]

V.Sundara Ramanujam (died)

4.S.Indirani

...Appellants/Plaintiffs

Vs.

1.J.Chandrash Kumar

2.J.Aroumougam

[R1 and R2 Ex-parte before the Tribunal]

3.The Chief Manager,
The Oriental Insurance Co., Ltd.,
3rd party Claims Hub,
216, Old No.155, Prakasam Salai,
Broadway, Chennai - 600 108.

...Respondents/Defendants

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 16.03.2018 made in M.C.O.P.No.3443 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore.

For Appellants :Mrs.V.Ramya Rao

For Mr.R.Sreedhar

For R1 & R2 : Ex-parte before Tribunal



For R3 : Mr.Ramachandran Sivakumar

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellants seeking enhancement of compensation granted by the Tribunal in the award dated 16.03.2018 made in M.C.O.P.No.3443 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore.

2. The appellants are the claimants in M.C.O.P.No.3443 of 2013 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore. The appellants have filed the said claim petition claiming a sum of Rs.50,00,000/- as compensation for the death of one Ravi, who died in the accident that took place on 26.08.2013.

3. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the 1st respondent and the 2nd respondent is the owner of the offending vehicle and directed the respondents 1 and 2 as well as the 3rd respondent / Insurance Company being the insurer of the said bus to pay jointly and severally a sum of Rs.10,30,000/- as compensation to the appellants.

4. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellants contended that at the time of accident, the deceased was doing agriculture in his own 3 acres of land apart from working as Manager in Priyanka Agencies, working partner in Nanbaa Offset Litho Press and was earning a sum of Rs.40,000/- per month. It is further contended that though Exs.P6 and P7 the Salary Certificates issued by the Managing Partner of Nanbaa Offset Litho Printers, Pondicherry and the Proprietor of Priyanka Enterprises, Puducherry were produced and P.W.3 was examined to prove the income of the deceased, the Tribunal without considering the above aspects erroneously fixed notional income of the deceased at Rs.6,000/- per month. The learned counsel also would submit that though 25% of future prospects to be taken, the Tribunal had taken only 15% in calculating future prospects. The learned counsel would further submit that the Tribunal has not awarded adequate amounts towards loss of consortium and loss of love and affection and sought for enhancement of compensation.

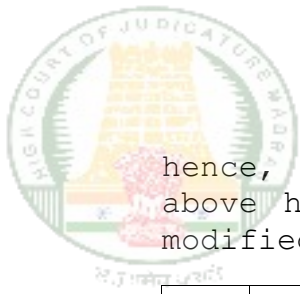


6. Per contra, the learned counsel appearing for the 3rd respondent / Insurance Company contended that the Tribunal after considering all the records and evidence in proper perspective rightly awarded just compensation. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 3rd respondent / Insurance Company and perused all the materials available on record.

8. To prove the income of the deceased the appellants have produced Exs.P6 and P7 Salary Certificates issued by the Managing Partner of Nanbaa Offset Litho Printers, Pondicherry and the Proprietor of Priyanka Enterprises, Puducherry respectively. P.W.3 was also examined to prove the same. The Tribunal, disbelieving the evidence of P.W.3 fixed notional income of the deceased is at Rs.6,000/- per month which is obviously very meagre. The accident is of the year 2013 and considering the fact that the deceased possessed agricultural land of 3 acres, a reasonable sum of Rs.12,000/- can be fixed as monthly income of the deceased and hence, the same is fixed at Rs.12,000/-. The Tribunal ought to have calculated future prospects at the rate of 25% instead of 15% hence, future prospects is calculated taking 25%. Considering the age of the deceased, the Tribunal has rightly applied multiplier '14'. There are four dependants of the deceased and hence, the Tribunal has rightly deducted 1/4th towards personal expenses of the deceased. Hence, the amounts awarded by the Tribunal towards loss of income is modified to Rs.18,90,000/- [Rs.15,000 (Rs.12,000/- + 3,000/- (25% of 12,000) X 12 X 14 X 3/4)].

9. Further, the Tribunal has awarded a meager sum of Rs.25,000/- towards loss of consortium for the 1st appellant which has to be enhanced to Rs.40,000/-. Further, the Tribunal has awarded a sum of Rs.1,00,000/- towards loss of love and affection for the minor children and a sum of Rs.10,000/- for the mother of the deceased which obviously needs modification. Hence, by fixing Rs.40,000/- each the compensation amount is calculated at Rs.1,20,000/- towards loss of love and affection for the minor children and the mother of the deceased. The Tribunal has awarded a sum of Rs.25,000/- towards funeral expenses which is on the higher side and the same is reduced to Rs.15,000/-. The Tribunal has not awarded any compensation towards loss of estate and expenses towards transportation and



hence, this Court is inclined to award Rs.15,000/- each for the above heads. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by the Tribunal (Rs.)	Amount awarded by this Court (Rs.)	Award confirmed or enhanced or granted
1.	Pecuniary Loss	Rs.8,69,400/-	Rs.18,90,000/-	Enhanced
2.	Loss of Consortium	Rs.25,000/-	Rs.40,000/-	Enhanced
3.	Loss of Love and affection for minor 2 nd and 3 rd appellants	Rs.1,00,000/-	Rs.80,000/-	Reduced
4.	Loss of Love and affection for the 5 th appellant / mother	Rs.10,000/-	Rs.40,000/-	Enhanced
5.	Loss of Estate	---	Rs.15,000/-	Granted
6.	Funeral Expenses	Rs.25,000/-	Rs.15,000/-	Reduced
7.	Transport Expenses	---	Rs.15,000/-	Granted
	Total	Rs.10,29,400 /- rounded @ Rs.10,30,000 /-	Rs.20,95,000 /-	Enhanced by Rs.10,65,000 /-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,30,000/- is hereby enhanced to Rs.20,95,000/- [Rupees Twenty Lakhs Ninety Five Thousand Only] together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The respondents 1 to 3 are directed to deposit the enhanced award amount now determined by this Court along with interest and costs, jointly and severally, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgement to the credit of M.C.O.P.No.3443 of 2013, on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore. On such deposit, the 1st and 4th appellants are permitted to withdraw



their respective shares of the total award amount now determined by this Court, as per the apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn, by making necessary applications before the Tribunal. The share of the minor 2nd and 3rd appellants is directed to deposit any one of the Nationalized Banks, till the minor 2nd and 3rd appellants attains majority. On such deposit, the 1st appellant being the mother of the minor 2nd and 3rd appellants is permitted to withdraw the accrued interest once in three months for the welfare of the minor 2nd and 3rd appellants. The appellants are directed to pay the necessary Court fee if any, for the enhanced amount of compensation. In other respects, the amount awarded by the Tribunal shall stand confirmed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To:

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

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

+1 CC to Mrs.V.Ramya Rao, Advocate sr 6531.

C.M.A.No.1571 of 2018

AD(CO)

SP(11/03/2022)