



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.1336 of 2021

1.Gowri

2.Minor Abirami

3.Minor Dhiyasri ...Appellants/Petitioners
[The 2nd and 3rd minor appellant are
represented by their next friend / guardian
/ mother Gowri.]

vs.

1.Pari

2.The Oriental Insurance Co., Ltd.,
146, South Car Street, Kamalar,
Tiruchengode.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against judgment and decree in M.C.O.P.No.130 of 2015, dated 18.09.2019 on the file of the Motor Accident Claims Tribunal / Subordinate Judge Court, Tiruchengode.

For Appellants : Mr.C.Paraneetharan

For Respondents : Mr.M.J.Vijayaraghavan - R2

Not ready in notice - R1



JUDGMENT

The claimants are the appellants before this Court seeking enhancement of the award passed by the Motor Accident Claims Tribunal / Subordinate Judge Court, Tiruchengode in M.C.O.P.No.130 of 2015, dated 18.09.2019.

2. The brief facts are as follows:

The claimants are the wife and daughters respectively of the deceased Karthikeyan. The claimants had sought compensation of a sum of Rs.25,00,000/-. It is their contention that the deceased Karthikeyan was an auto driver. The 2nd respondent/Insurance Company has filed the petition and contested the claim. They would deny the nature of the accident, the liability as well as the quantum.

3. The Tribunal below had perused the evidence on record and came to the conclusion that the claimants had not proved the occupation of the deceased Karthikeyan and therefore, arrived at a notional income of Rs.7,000/- to which future prospects 40% was added. Further, a sum of Rs.15,000/- was granted under the head of loss of Estate. Therefore, the claimants has filed this appeal challenging the award.

4. Mr.C.Paraneedharan, learned counsel appearing on behalf of the appellants/claimants would submit that the Tribunal below ought to have fixed the notional income of Rs.10,000/- and that apart no amount has been granted under the head of loss of love and affection to the claimants.

5. The learned counsel appearing for the Insurance Company would submit that the Tribunal has fixed the notional income as per the earlier judgments of the Hon'ble Supreme Court and therefore, the Tribunal has been rightly fixed the notional income at Rs.7,000/- p.m.

6. Heard the learned counsel for both sides.

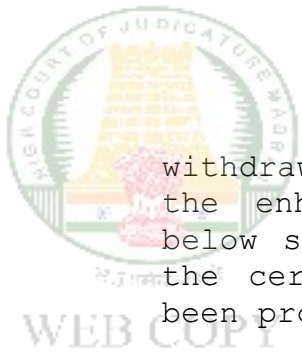
7. Taking into account the earlier pronouncement of the judgment of the Hon'ble Supreme Court, the Tribunal has rightly fixed the notional income at Rs.7,500/- to which 40% was added towards future prospects. Out of this, 1/3rd was deducted towards personal expenses and the income was arrived at a sum of Rs.7,000/-. Further, a perusal of the award would clearly show that no amount has been credited to the claimants under the head of loss of love and affection. Therefore, this Court reworks the



claim awarded by the Tribunal and each of the claimants are entitled to a sum of Rs.40,000/- under the head of love and affection. Therefore, the award passed by the Motor Accident Claims Tribunal (Sub-Judge), Tiruchengode is enhanced by a further sum of Rs.80,000/- under the head of loss of love and affection. The compensation is therefore reworked as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Compensation for future loss of income	13,44,000/-	13,44,000/-	Confirmed
2.	Loss of Consortium to the 1 st claimant/wife	40,000/-	40,000/-	Confirmed
3.	Loss of Estate	15,000/-	15,000/-	Confirmed
4.	Funeral Expenses	15,000/-	15,000/-	Confirmed
5.	Loss of Love and Affection to the claimants	-	80,000/-	Granted
	TOTAL	14,14,000/-	14,94,000/-	Enhanced by Rs.80,000/-

8. Therefore, the Civil Miscellaneous Appeal is partly allowed and the total compensation of Rs.14,14,000/- awarded by the Tribunal is hereby enhanced to a sum of Rs.14,94,000/- together with interest @ 7.5 % per annum from the date of petition till the date of deposit. The Insurance Company is directed to deposit the said amount (Rs.14,94,000/-) to the credit of M.C.O.P.No.130 of 2015 on the file of the Motor Accident Claims Tribunal / Subordinate Judge Court, Tiruchengode, together with interest @ 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 Judgement. On such deposit being made, the claimants are permitted to withdraw the amount now determined by this Court, as per the apportionment made by the Tribunal along with interest and costs, after adjusting the amounts if any already



withdrawn. The 1st claimant is 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 claimant. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ssn
To

1. The Motor Accident Claims Tribunal,
Subordinate Judge
Tiruchengode.
2. The Section Officer,
V.R.Section,
High Court of Madras, Chennai.

+2 Ccs to Mr.T.S. Arthanareeswaran, Advocate sr 17298

C.M.A.No.1336 of 2021

MG(CO)
SP(31/05/2022)