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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

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THE HONOURABLE MS. JUSTICE P.T.ASHA

C.M.A. No.2532 of 2019

1.M.Lakshmi
2.M.Dillibabu
3.M.Sangeetha

...Appellants/Petitioners

Vs

The Managing Director,
Metropolitan Transport Corporation,
Pallavan Salai, Pallavan House,
Chennai- 600002

... Respondent/ Respondent

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, To allow this appeal and be pleased to enhance the amount awarded in MCOP No.261/2017 dated 16.11.2018 on the file of the Motor Accident Claims Tribunal (Principal Special Judge Special Court) Chennai.

For Petitioner : Mr.K.Varadha Kamraj

For Respondent : Mr.S.Siva Kumar.

JUDGEMENT

The appeal is filled by the claimant seeking an enhancement of the award amount of Rs.11,87,956/-. The case of the claimant/appellant is that the Tribunal below ought to have fixed the monthly income at a sum of Rs.21,000/- and ought to have awarded a sum of Rs.20,000/- towards pecuniary loss. The age of the deceased was 52 years at the time of the accident and he was working as a mason and his monthly income was a sum of Rs.21,000/-. The Tribunal below erred in fixing the monthly income of the deceased at only Rs.10,000/-.

2. Heard both the learned counsels.

3. The appellants/claimants are the wife and children of the deceased Murugan. Though the claimants have contended that



Murugan was a mason no documents have been filed to substantiate the same. Murugan was aged 52 years at the time of his death. The Tribunal below has fixed a notional income of Rs.10,000/- per month.

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4. The accident has occurred in the year 2016, and therefore, applying the judgment reported in 2017 (2) TN MAC 609 (SC) - Pranay Sethi and others, the notional income ought to have been a sum of Rs.13,000/- to which 10% had been added towards future prospects whereby the monthly income would be a sum of Rs.14,300/- Since the deceased was aged about 52 years a multiplier of 11 has to be adopted and $\frac{2}{3}$ rd have to be deducted from out of the total income, as a result of which the amount now payable under the head of loss of love and affection would be a sum of Rs.14,300*12*11* $\frac{2}{3}$ which is worked out a sum of Rs.12,58,400/-.

5. It is also noticed that a sum of Rs.1,50,000/- has been awarded under the head of love and affection a sum of Rs.40,000/- towards loss of consortium since the wife has been granted a loss of Consortium of Rs.40,000/- the two children are also entitled to a sum of Rs.40,000/-. Therefore, under the head of loss of love and affection as against the sum of Rs.150,000/- only a sum of Rs.80,000/- should be ordered. Therefore, the appeal is allowed and the following compensation is awarded:

Loss of income Rs.12,58,400/-, loss of love and affection Rs.80,000/-, loss of consortium Rs.40,000/-, loss of estate Rs.15,000/- and funeral expenses Rs.15,000/- totalling to a sum of Rs.14,08,400/-

Enhanced compensation in Tabular Form is as follows:

SR.No	HEADS OF COMPENSATION	AMOUNT
1.	Pecuniary loss	Rs.12,58,400/-
2.	Loss of Estate	Rs.15,000/-
3.	Loss of Love & Affection	Rs.80,000/-
4.	Loss of Consortium	Rs.40,000/-
5.	Funeral Expenses	Rs.15,000/-
	Total	Rs.14,08,400/-

With 7.5 % interest.

6. Therefore, the Civil Miscellaneous Appeal is allowed and the compensation is enhanced to a sum of Rs.14,08,400/-. The respondent/ Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.261 of 2017 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 entitled to withdraw the same forthwith. The compensation amount is apportioned to the claimants as per the ratio fixed by the Tribunal. The claimants shall pay the Court Fee for the enhanced amount within a period of two weeks from the date of receipt of a copy of this Judgement. No costs.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

1. Motor Accident Claims Tribunal
(Principal Special Judge Special Court)
Chennai.
2. The Section Officer,
V.R.Section,
High Court of Madras, Chennai.

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.12535

C.M.A. No.2532 of 2019

JPL(CO)
SU(09/06/2022)