IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.M.A.NO.91 OF 2018

1. P.K.Priji

2. P.Aishwarya (minor)

3. P.Madhavan (minor)

4. P.Sumathi (died)

(Minor petitioners 2 and 3,
Rep. by their mother and Natural
guardian of 1st petitioner herein)

(Amendment carried out as 4th petitioner
died by order in M.P.No.1258 of 2015
dated 21.04.2015)

... Petitioners/Appellants

.Vs.

1. S.Govindarajan
(remained ex-parte)

2. Reliance General Insurance Co. Ltd.,
HEAVITREE Unit No.1, 3rd Floor,
No.23, Spur Tank Road,
Chetpet, Chennai - 600 031.

... Respondents/Respondents

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 11.10.2017 in MACTOP No.2234 of 2012 on the file of the II Small Causes Court (Motor Accidents Claims Tribunal) Chennai.

For Appellants	:	Mr.M.N.Muthurajan
For R1	:	Ex-parte
For R2	:	Mr.S.Arunkumar

J U D G M E N T

This appeal has been filed questioning the quantum granted as compensation in MACTOP No.2234 of 2012 by the Motor Accident Claims Tribunal, Chennai/II Court of Small Causes, Chennai.

2. The claimants in MACTOP No.2234 of 2012 on the file of the above Court are the appellants herein. They are aggrieved by the compensation granted by judgment dated 11.10.2017 owing to the death of Baijunath in a road accident on 02.10.2011. The 1st claimant is the widow and 2nd and 3rd claimants are minor children and the 4th claimant who has since died was the mother of the deceased.

3. The brief facts are that, on 02.10.2011 at around 4.00 p.m., the deceased was driving the motor cycle bearing registration No.TN-09-S-9747 from Nandanam to Little Mount and at that time, the car of the 1st respondent bearing registration No.TN-50-X-0830 coming from behind dashed against the motor cycle which was driven by the deceased and as a result, the accident occured. The deceased suffered grievous injuries and died on the way to the hospital.

4. The first point which the Tribunal took up for consideration was whether the accident happened due to the rash and negligent driving of the first respondent and in answer to such point, the Tribunal affirmed the same and held that the accident was only due to the rash and negligent manner in which the vehicle was driven by the 1st respondent. Let me confirm that finding.

5. Thereafter, the Tribunal proceeded to determine the compensation payable. By judgment dated 11.10.2017, the Tribunal had granted a total compensation of Rs.12,02,280/-. The compensation breakup is as follows:

Heads	Amounts
Monthly income	Rs.6,000/-
30% to be added as future prospects Rs.6,000 x 30/100	Rs.1,800/-
Total monthly income Rs.6,000 + Rs.1,800	Rs.7,800/-
For the personal expenditure of the deceased 30% to be deducted Rs.7,800 x 30/100 = Rs.2,340/- (7800 - 2340 = 5460)	Rs.5,460/-

Compensation after multiplier of 14 is applied Rs.5,460 x 12 x 14	Rs.9,17,280/-
Loss of love and affection towards 2 and 3 minor petitioners Rs.80,000/- each.	Rs.1,60,000/-
Consortium	Rs.1,00,000/-
Funeral expense	Rs.25,000/-
Total	Rs.12,02,280/-

6. The Tribunal had taken into consideration the salary of the deceased at Rs.6,000/-. It must be kept in mind that the deceased was working as a salesman in Pergo Design Centre and a salary certificate Ex.P8 was produced which reflected he was earing a sum of Rs.13,200/-. The employer was also examined as a witness. Thereafter, the Tribunal proceeded to examine the bank statement and found that the salary mentioned was not reflected in the bank statement. It had been claimed that the deceased was an income tax assessee but it was observed by the Tribunal that an assessment order was not produced. The Tribunal did not place relieance on that Ex.P8 and determined the income at a sum of Rs.6,000/- per month.

7. Taking into consideration the fact that the salary certificate would reflect the actual salary of any individual and the bank statement would contain the net amount credited after deductions, let me interfere with the determination of the monthly income as fixed by the Tribunal and refix it to a sum of Rs.9,000/-. The Tribunal had granted future prospects at 30% and let me rework that at 25%. This would indicate that the income together with future prospects would now come to Rs.11250/- (Rs.9,000 + Rs.2,250). Thereafter, the Tribunal had deducted 30% as personal expenses towards the deceased and and let me rework this also at 25%, and the amount would come to Rs.8,438/- which can be rounded off to Rs.8,440/- (Rs.11,250 – Rs.2,812). If a multiplier of 14 is adopted, then the compensation would come to Rs.14,17,920/- (Rs.8,440 x 12 x 14 = Rs.14,17,920/-). The Tribunal had granted a sum of Rs.80,000/- each towards loss of love and affection of the two minor children. But I would rather grant a sum of Rs.40,000/- each of the minor children under this head and the total would therefore be Rs.80,000/- The Tribunal had granted a sum of Rs.1,00,000/- towards loss of consortium. Let me revise that to Rs.40,000/-. The Tribunal had granted a sum of Rs.25,000/- towards funeral expenses, which can be reduced to Rs.15,000/-. The total compensation amount now granted is Rs.15,52,920/-. The Tribunal had granted interest at the rate of 9%. However, the standard rate of interest is 7.5%. The difference in the compensation amount shall be paid at the

rate of 7.5% per annum. The apportion as determined by the Tribunal are maintained. The compensation breakup is as follows:

Heads	Amounts
Monthly income	Rs.9,000/-
25% to be added as future prospects Rs.9,000 x 25/100	Rs.2,250/-
Total monthly income Rs.9,000 + Rs.2,250	Rs.11,250/-
For the personal expenditure of the deceased 25% to be deducted Rs.11,250 x 25/100	Rs.8,438/-
Compensation after multiplier of 14 is applied Rs.8,440 x 12 x 14	Rs.14,17,920/-
Loss of love and affection towards 2 and 3 minor petitioners Rs.40,000/- each.	Rs.80,000/-
Consortium	Rs.40,000/-
Funeral expense	Rs.15,000/-
Total	Rs.15,52,920/-

8. The Civil Miscellaneous Appeal is partly allowed to that extent enhancing the compensation which had been determined as Rs.12,02,280/- to Rs.15,52,920/-. The Insurance company shall deposit the difference in compensation amount i.e., Rs.3,50,640/- with interest of 7.5% from the date of filing of the petition till the date of deposit within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the appellants are permitted to withdraw the same and Additional Court fees if any has to be paid. No order as to costs.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

smv

To:-

The II Judge,
The Motor Accidents Claims Tribunal/
Court of Small Causes,
Chennai.

Copy To:-

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

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.13158
+1cc to Mr.M.N.Muthurajan, Advocate, S.R.No.12526

C.M.A.NO.91 OF 2018

SVI(CO)
PBS/29/03/2022