



C.M.A.No.3397 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.3397 of 2019

1. Radhakrishnan
2. Vijayalakshmi

... Appellants

VS.

1. H.Rahamath Basha
2. The Divisional Manager,
United India Insurance Co.Ltd.,
Plot 35,36, 37, A.R.Plaza,
45 Feet Road, Balaji Nagar Extension,
Saram,
Puducherry – 605 011.
3. S.Asokan
4. Divisional Manager,
Sriram General Insurance Co.Ltd.,
Plot No.5, Ramachandran Street,
Saravana Nagar,
Seevaram, Perungudi,
Chennai – 600 096

...

Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award and decree passed by the learned Special Sub Judge (MACT) at Cuddalore dated 13.04.2018 in



C.M.A.No.3397 of 2019

M.C.O.P.No.2206 of 2016.

For Appellant : Mr.S.Udhayakumar
For Respondent 1 & 3 : Served
For Respondent-2 : Mr.A.Diraviyanathan
For Respondent-4 : Ms.L.Poomalai

JUDGMENT

The claimants are the appellants before this Court, seeking an enhancement of the award amount passed by the learned Special Sub Judge (MACT) at Cuddalore dated 13.04.2018 in M.C.O.P.No.2206 of 2016.

2. The grievance of the claimants is that the Tribunal below had fixed the notional income at a sum of Rs.6,000/- instead of a sum of Rs.9,000/- and only a sum of Rs.20,000/- has been awarded under the head of Love and Affection to the parents.

3. The learned counsel appearing for the second respondent/Insurance Company would fairly concede to the contention raised by the learned counsel for the appellants/claimants. Therefore, the award is re-worked as follows:-



C.M.A.No.3397 of 2019

WEB C

The Notional income of the deceased is fixed at Rs.9,000/-, to which, future prospects at 50% is to be added. As a result, the monthly income would come to a sum of Rs.13,500/-. The deceased was aged 22 years. Therefore, the multiplier of 18 has to be adopted. The total Loss of Income would work out to a sum of Rs.29,16,000/-. Since the deceased is a bachelor, $\frac{1}{2}$ of the monthly income has to be set aside towards his personal expenses and therefore, the appellants/claimants would get a sum of Rs.14,58,000/-. That apart, a sum of Rs.40,000/- each is payable to the appellants for loss of Filial Consortium, as against the sum of Rs.20,000/-, which has been awarded by the Tribunal. Therefore, the compensation shall be awarded as follows:

<i>Heads</i>	<i>Amount in Rs.</i>
Loss of Income (13,500x12x18)/2	14,58,000
Love and Affection to the appellants/parents	80,000
Funeral Expenses	15,000
Transport Expenses	15,000
Total	15,68,000



C.M.A.No.3397 of 2019

WEB COPY

5. In the result, this Civil Miscellaneous Appeal is partly allowed by enhancing the Compensation from Rs.8,60,000/- to Rs.15,68,000/- . The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.2206 of 2016 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 entitled to withdraw the same forthwith. The claimants are directed to pay necessary Court fee on the enhanced compensation amount within a period of two weeks from the date of receipt of a copy of this order. The proportion of all allocation of shares adopted by the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

21.02.2022

Index : Yes/No

Speaking / Non-speaking order

srn

To

1. The learned Special Sub Judge (MACT), Cuddalore
2. The Section Officer,
V.R.Section,
High Court of Madras, Chennai.



WEB COPY



C.M.A.No.3397 of 2019

P.T.ASHA, J.,
srn

C.M.A.No.3397 of 2019
and
C.M.P.No.1833 of 2022

21.02.2022