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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2022

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THE HONOURABLE MS. JUSTICE P.T.ASHA

C.M.A. No.1996 of 2021

1.T. Ezhumalai
2.E. Santhi

...Appellants/Petitioners.

Vs

1.T.M.Lakshmipriya
2.United India Insurance Co.LtD.
Third Party Service Hub
Plot No.35, 36, 37 AR Plaza,
45 Feet Road, Balaji Nagar Extn.
Saram Puducherry- 605 011.

...Respondents/Respondents.

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, To allow the appeal and enhance the compensation in MCOP No.1946 of 2018 dated 17.12.2020 on the file of the Motor Accidents Claims Tribunal I Additional District and Sessions Judge at Cuddalore.

For Petitioner : M/s. Ramya V. Rao

For Respondent : Mr.D.Bhaskar [R2]
No appearance [R1]

JUDGEMENT

The claimants who are the legal representative of the deceased Jayaprakash have challenged the award passed by the Motor Accident Claims Tribunal Cuddalore. The Tribunal had passed an award of Rs.12,79,600/- as against a claim of Rs.30,00,000/-.

2. As per the claimant's case, the deceased was employed as a Tailor and was working under P.W.3 at 4th Street, Police Line, Panruti Taluk. It is the grievance of the claimant that although P.W.3 had been examined, the Tribunal below has only fixed a notional income of Rs.8,000/- and added 40% towards future prospect.



3. Considering the fact that the claimants were the parents, half the amount was deducted towards personal and living expenses and the Tribunal had adopted a multiplier of 18 and thus the Tribunal has awarded a sum of Rs.12,09,600/- towards loss of pecuniary benefits and 70,000/- towards conventional damages.

4. The grievance of the appellant is that the Tribunal below ought to have considered the evidence of P.W.3 through whom Ex.P.8 (salary certificate) has been marked. The counsel for the claimant would submit that the income should have been fixed at a sum of Rs.12,000/- per month to which 40% should be added for future prospects. Further, the Tribunal has only awarded a sum of Rs.20,000/- each under the head of Filial consortium as against the sum of Rs.40,000/- each as per the judicial pronouncements in 2018 (18) SCC page 130 - Magma General Insurance Company Limited Versus Nanuram @ Chuhru Ram and others.

5. The learned counsel for the insurance company has not been able to rebut the above contentions, therefore, the award of the Tribunal is modified as follows:

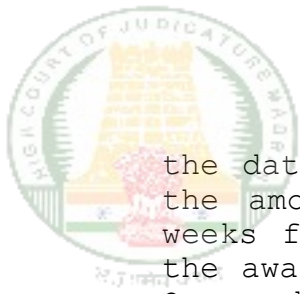
Loss of income/Loss of pecuniary benefits = $12000 + 40\% - 1/2 \times 12 \times 18 = 18,14,400/-$.
Love and Affection/Filial consortium = Rs.80,000/-
Loss of Estate = Rs.15,000/-
Funeral expenses = Rs.15,000/-
Total = Rs.19,24,400/- with 7.5 % interest.

Enhanced compensation in Tabular Form is as follows:

SR.No	HEADS OF COMPENSATION	AMOUNT
1.	Loss of pecuniary benefits/Loss of income ($12000 + 40\% - 1/2 \times 12 \times 18$)	Rs.18,14,400/-
2.	Love and Affection/Filial consortium	Rs.80,000/-
3.	Loss of Estate	Rs.15,000/-
4.	Funeral expenses	Rs.15,000/-
Total		Rs.19,24,400/-

With 7.5 % interest.

6. Therefore, the Civil Miscellaneous Appeal is allowed and the compensation is enhanced to a sum of Rs.19,24,400/-. The 2nd respondent/ Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.1946 of 2018 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 and the award amount shall be equally apportioned between claimants. On such deposit being made, the claimants are entitled to withdraw the same forthwith. 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 (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,
I Additional District and Sessions Judge at Cuddalore.

Copy to:

The Section Officer,
V.R.Section,
High Court,
Madras-104.

+2ccs to M/s.Ramya V. Rao, Advocate SR. No.11930

C.M.A. No.1996 of 2021

CP (CO)
PR (30/03/2022)