



C.M.A.No.2659 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 07.12.2022	Pronounced on 12.12.2022
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2659 of 2022

1.Kannagi, W/o.Late Suresh,

2.Lakshmi, W/o.Gurusamy,

3.Gurusamy, Aged 50 years,

4.Ramasamy, S/o.Gurusamy,

All are residing at Varappallam,

Perumugai Post, Gobi Taluk, Erode District.

... Appellants

Vs.

1.P.Paramasivam, S/o.Palanisamy,
4/148-12, Urathankadu, Kaliyanur,
Agraharam, Tiruchengode Taluk,
Namakkal District.

2.Cholamandalam M/s.General Insurance Company Ltd.,
Rep. by its Manager, 2nd Floor, Dare House,
2, NSC Bose Road, Chennai 600 001.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the order made in M.C.O.P.No.549 of 2012 on the file of the Motor



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Accident Claims Tribunal cum IV Additional District Judge, Erode District at Bhavani dated 5.1.2018, by enhancing the compensation.

For Appellants : Mr.C.Kulanthaivel

For Respondents : Ms.R.Sree Vidya (for R2)

R1 - No appearance

J U D G M E N T

The Appeal has been filed to set aside the order made in M.C.O.P.No.549 of 2012 on the file of the Motor Accident Claims Tribunal cum IV Additional District Judge, Erode District at Bhavani dated 05.01.2018 for enhancement of compensation.

2.Claim Petitioners are the Appellants herein. For the sake of convenience, they are referred to as per their ranking before the trial Court.

3.The legal representatives of the deceased viz., Suresh filed the above MCOP.No.549 of 2022, seeking compensation for his death in the road traffic



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accident and sum of Rs.10,66,163/- was awarded by the trial Court and hence they preferred the present Appeal for enhancement.

4.The Factum of the accident, manner of the accident, rash and negligent driving on the part of the offending vehicle are not in dispute and hence the same are hereby confirmed.

5.On the point of quantum of compensation both the parties are heard.

6.As per the Post mortem certificate, the deceased was aged about 25 years. By relying upon the judgment of the Hon'ble Supreme Court in **Syed Sadiq's** case, the trial Court has fixed monthly income at Rs.6,500/- and that case is relating to the year 2008. However, taking into consideration the date of the accident and also the principle laid down by the Hon'ble Supreme Court in arriving at notional income of a person, who is alleged to have engaged in avocation under unorganised sector, ends of justice could be met by fixing the monthly income at Rs.9,000/- for the accident taken place in the year 2012. Accordingly, monthly income of the deceased is fixed at Rs.9,000/-. As per **Pranay Sethi's** case 40% future prospects should be taken and as per **Sarla Verma's** case, multiplier 18 is adopted and 1/3rd deduction is made. Hence the



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pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$\begin{aligned} \text{Rs.9,000/-} + \text{Rs.3,600/-} &= \text{Rs.12,600/-} \\ \text{Rs.12,600/-} \times 12 \times 18 \times 2/3 &= \text{Rs.18,14,400/-} \end{aligned}$$

7.The 1st Petitioner, being the widow of the deceased is entitled for filial consortium and accordingly Rs.40,000/- awarded by the Tribunal is confirmed. The other Petitioners 2 to 4 are entitled to get a sum of Rs.40,000/- each towards love and affection [Rs.40,000/- x 3 = 1,20,000/-].

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>	<i>Modification</i>	<i>Amount (Rs.)</i>
1	Loss of income	936000	Enhanced	1814400
2	Loss of consortium	40000	Confirmed	40000
3	Loss Love and affection	40000	Enhanced	120000
4	Funeral expenses	15000	Confirmed	15000
5	Transport to hospital	10000	Confirmed	10000
6	Loss of Estate	15000	Confirmed	15000
7	Medical expenses	10163	Confirmed	10163
	Total Compensation	1066163		2024563

(Rupees twenty lakh twenty four thousand five hundred and sixty three only)

The Appeal was filed with the delay of 667 days and while allowing the condone delay petition in C.M.P.No.4934 of 2021, this Court had held that the appellants will not be entitled to interest for the delayed period of 667 days. Accordingly, the appellants will not be entitled to the interest for the delayed period.



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In total, the claimants are entitled to a sum of Rs.20,24,563/- with interest. The rate of interest fixed by the Tribunal at 7.5% per annum is confirmed.

8. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed to the extent indicated above. No Costs.

(ii) the 2nd Respondent/insurance company is directed to deposit the modified enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) On such deposit being made, all the claimants/appellants are permitted to withdraw their share in the award amount with proportionate accrued interest and costs, as per the ratio of apportionment made by the Tribunal, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.



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(iv) The appellants/claimants are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

12.12.2022

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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To

The learned IV Judge,
Court of Small Causes,
Chennai.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated: 12.12.2022