



C.M.A.No.2599 of 2022

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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 28.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2599 of 2022

1.K.S.Divya @ Divyadharshini

2.Rajehwari

3.Kaniyappan ... Appellants/Petitioners

Vs.

1.S.Chandrasekar

2.Reliance General Insurance Co. Ltd.

D.NO.18, Reliance Centre,
Wall Chand, Hirachand Marg
Ballard Estate, Mumbai
Maharashtra – 400001.

... Respondents/Respondents



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Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Award dated 09.12.2019 in MACTOP No.92 of 2017 on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Sathiyamangalam.

For Appellants : Ms.P.T.Saleem Fathima

For Respondents : Mr.P.Suresh Srinivasan for R2

JUDGMENT

The petitioner in M.A.C.T.O.P. No.92 of 2017 is the appellant before this Court challenging the quantum of compensation granted by the Tribunal.

2.Considering the fact that it is only the quantum that has been questioned, I do not intend to traverse the facts leading the filing of the petition. The Tribunal has awarded a sum of Rs.74,02,660/- as



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compensation to the claimants. The claimants have filed this appeal before this Court seeking an enhancement.

3.Heard the learned counsels appearing on either side and perused the papers.

4.The claimants are the wife and parents of the deceased Vellingiri. After hearing the contentions, it appears that the only head under which a revision is required is under the head of loss of love and affection and consortium. The Tribunal has not awarded any amounts under the head of consortium and only a sum of Rs.40,000/- under the head of loss of love and affection although both the parents are petitioners. Therefore, following the Judgment in **2017 (16) SCC 680 [National Insurance Company v. Pranaya Sethi and another]**, the amount under the head of loss of love and affection to the parents have to be enhanced by a further a sum of Rs.40,000/- each and the loss of consortium should be granted to the 1st



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petitioner/wife at Rs.40,000/-. That apart, the amount that has been granted under the head of transportation shall be renamed as loss of estate. The Award amount is accordingly enhanced. Therefore, taking into consideration the above aspects, the modified amount is as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1.	Loss of pecuniary benefits	Rs.73,32,660/-	Rs.73,32,660 /-	Confirmed
2.	Loss of love and affection to the parents	Rs.40,000/-	Rs.80,000/-	Enhanced
3.	Funeral expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
4.	Transportation	Rs.15,000/-	-	Deleted
5.	Loss of estate	-	Rs.15,000/-	Granted
6.	Loss of consortium	-	Rs.40,000/-	Granted
	Total	Rs.74,02,660/-	Rs.74,82,660 /-	



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5. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The 2nd respondent/Insurance Company is directed to deposit the entire award amount, less the amount already deposited, with proportionate accrued interest and costs, to the credit of MACTOP No.92 of 2017 on the file of the learned Subordinate Judge, Motor Accidents Claims Tribunal, Sathiyamangalam, within a period of four weeks from the date of receipt of a copy of this Judgment, if not deposited earlier. On such deposit, the appellants are permitted to withdraw the entire award amount with proportionate accrued interest and costs as apportioned by the Tribunal, by making necessary applications.

The claimants are directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimants. No costs.

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Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

P.T. ASHA, J,

mps

To

The Subordinate Judge,
Motor Accidents Claims Tribunal,
Sathiyamangalam.

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