



C.M.A.No.2752 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 14.12.2022	Pronounced on 22.12.2022
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2752 of 2022

1.Eswari (63 years)

W/o.Late Rathinam

2.Sasirekha (45 years)

W/o.Balakrishnan

3.Jagadeesan (43 years)

S/o.Late Rathinam,

All are residing at D.No.113/30,
Near Kalyana Ganapathi Temple,
Ammapettai, Salem Taluk,
Salem District.

... Appellants

Vs.

1.The India Cements Ltd.,
Having Office at Old No.2/196,
New No.2/298, off Old Mahapalipuram Road,
Navalur, Chennai.

2.The New India Assurance Co. Ltd.,
Divisional Office, Sedu Krsihna Trade Centre,
2nd Floor, Trichy Main Road,
Gugai, Salem.

... Respondents



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Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award in Judgment and Decree dated 06.01.2022 made in M.C.O.P.No.630 of 2020 on the file of Motor Accident Claims Tribunal and Special District Judge, Salem.

For Appellants : Mr.S.P.Yuaraj
For Respondents : Mr.J.Chandran (for R2)

J U D G M E N T

This Appeal has been filed against the Judgment and Decree dated 06.01.2022 made in M.C.O.P.No.630 of 2020 on the file of Motor Accident Claims Tribunal and Special District Judge, Salem.

2.The claim Petitioners are the Appellants herein, seeking enhancement of compensation. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The claim Petitioners are the legal representatives of the deceased Rathinam, who died in the road traffic accident on 29.01.2020 filed MCOP.No.630 of 2020. After trial, the Tribunal has awarded a sum of Rs.2,90,000/- as compensation. Having not satisfied with the quantum, the



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claim Petitioners preferred the present Appeal.

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4.Mr.J.Chandran, learned counsel takes notice on behalf of the 2nd Respondent. Heard the learned counsel appearing on behalf of both sides.

5.During the trial, on the side of the Petitioners, PW1 & PW2 were examined and Ex.P.1 to Ex.P14 were marked. None was examined and no documents were marked on the side of the Respondents.

6.As per Ex.P2/Post mortem certificate, the deceased was aged 75 years. In the absence of any proof of income, the Tribunal has taken a consolidated sum of Rs.2,50,000/- as compensation and also awarded a sum of Rs.40,000/- towards Medical expenses, as per Ex.P.8/Medical bills and thereafter apportioned the compensation. As per the evidence of PW1, deceased was working as agent of Post Office saving scheme and PACL insurance agent at the time of the accident. Hence, a sum of Rs.6,500/- is taken as notional income of the deceased and as per the judgment of the Hon'ble Supreme Court in the case of *Sarla Verma & Others .Vs. Delhi Transport Corporation & another*,



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reported in **2009 (2) TNMAC 1 (SC)**, right multiplier is “5” and the same is adopted and 1/3rd deduction towards personal expenses is also adopted and hence the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$\text{Rs.}6500 \times 12 \times 5 \times \frac{2}{3} = \text{Rs.}2,60,000/-$$

Medical expenses awarded to the tune of Rs.40,000/- by the Tribunal is confirmed. A sum of Rs.40,000/- is awarded to the 1st Petitioner/wife towards loss of consortium, a sum of Rs.40,000/- each is awarded to Petitioners 2 & 3 towards loss of love and affection, a sum of Rs.15,000/- is awarded towards funeral expenses and a sum of Rs.15,000/- is awarded towards transportation.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Loss of income	260000
2	Medical expenses	40000
3	Loss of consortium	40000
4	Loss Love and affection	80000
5	Funeral expenses	15000
6	Transportation	15000
	Total Compensation	450000

In total, the claimants are entitled to a sum of Rs.4,50,000/- (Rupees four lakh and fifty thousand only). Interest at the rate of 7.5% per annum fixed by the



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Tribunal is also confirmed.

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7. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.2,90,000/- to Rs.4,50,000/- 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 entire share in the enhanced 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.

(iv) the appellants/claimants are directed to pay the court fee, if any, for the



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enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

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22.12.2022

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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To

The Presiding Officer,
Motor Accident Claims Tribunal
Special District Judge, Salem.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

C.M.A.No.2752 of 2022

Dated: 22.12.2022