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C.M.A.No.1137 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MRS. JUSTICE N.MALA

C.M.A.No.1137 of 2017

R.Ashok Kumar (mentally infirm) (died)
Rep. by his father and natural guardian
A.V.Ramalingam

...appellants

2. A.V.Ramalingam

3. R.Rajeshwari

**[Appellant 2 and 3 brought on record as LRs
of the deceased sole appellant as per the order
of this Court dated 19.09.2022 in
CMP.No.11957 of 2021 in CMA.No.1137 of 2017.]**

Vs.

1. Managing Director,
2. National Insurance Company Ltd.,
Motor Third Party Claims Office,
No.751, Annasalai, 3rd Floor,
Chennai 2.

...respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 09.07.2014 in MCOP.No.4348 of 2012 on the file of the Motor Accidents Claims Tribunal, II Judge, Court of Small Causes, Chennai.



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For Appellant : Mr.S.Gangaram Prasad
For Respondents : Mr.M.Krishnamoorthy
for R2

J U D G M E N T

[Judgment of the Court was delivered by S.S.SUNDAR, J]

This appeal is filed by the claimant as against the award passed by the Motor Accidents Claims Tribunal (II Judge, Court of Small Causes, Chennai) in MCOP.No.4348 of 2012, dated 09.07.2014.

2. The facts in brief which are necessary for disposal of the appeal are as follows:

The first appellant/claimant while riding his motorcycle bearing Registration No.TN-20-AK-3793 along with his friend as a pillion rider, was hit by a Maruti Car that came from the opposite direction. As a result of the accident, the claimant sustained multiple injuries and admitted in Hospital as an inpatient. Subsequently, he went to Comatose & Vegetative state. Therefore, the claim petition was filed through the victim's father claiming a sum of Rs.2,00,00,000/- as compensation. However, after trial, the Tribunal awarded a sum of Rs.1,39,36,000/- under the following heads:



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S. No.	<i>Heads under which the amount is awarded by the Tribunal</i>	<i>Amount awarded by the Tribunal in Rs.</i>
1.	Transportation	2,00,000
2.	Extra Nourishment	2,00,000
3.	Damage to Clothes	5,000
4.	Medical Expenses	10,27,500
5.	Future Medical Expenses	2,50,000
6.	Attender Charges	3,00,000
7.	Loss of amenities of life	3,00,000
8.	Loss of marital life	3,00,000
9.	House Rent Charges	87,500
10.	Pain and Suffering	2,50,000
11.	Permanent disability	1,10,16,000
	Total	1,39,36,000

3. Aggrieved by the award of the Tribunal, the father of the claimant as natural guardian has filed the above appeal on behalf of the claimant. Pending appeal, the claimant died and hence, his parents were brought on record as his legal representatives as per the order of this Court.

4. The learned counsel appearing for the appellants submitted that after the accident, the claimant was under continuous medical treatment and he was taken care of by a medical attendant and for that, more than Rs.40,000/- was spent per month till his death on 11.05.2021. However, the



Tribunal failed to consider the same and awarded a meagre amount towards future medical expenses and attender charges.

5. The learned counsel for the appellants further submitted that at the time of the accident, the claimant was only aged about 26 years and he was drawing a monthly salary of Rs.40,000/- by working as an Assistant Manager in Godrej and Boyce Mfg. Co. Ltd. and considering his future promotions, the quantum awarded by the Tribunal has to be enhanced. The learned counsel further submitted that the award of the Tribunal on conventional heads are also very meagre and hence, the amounts awarded under those heads have also to be enhanced.

6. The learned counsel for the appellants submitted that pending appeal, the claimant died as a result of the accident and hence, the appellants may be granted further amount towards compensation for the loss of their son.

7. The learned Standing Counsel appearing for the second respondent/Insurance Company submitted that the claimant though entitled for higher compensation for additional expenses spent on him during pendency of appeal the claimant being dead, the legal heirs are not entitled to any further amount.



8. It is the argument of the learned counsel for the second respondent/Insurance Company that as the victim died as a bachelor, there should be a deduction of 50% towards personal expenses and therefore, the legal representatives of the deceased may not be able to sustain the claim made in this appeal.

9. It is admitted that pending appeal, the claimant died and his parents are brought on record as appellants 2 and 3.

10. The appellants has not produced any material before the Lower Court or before this Court to substantiate their claim for granting further quantum for future expenses towards medical expenses and attender charges. Further, the Tribunal has already awarded a huge sum of Rs.2,50,000/- towards future medical expenses and a further sum of Rs.3,00,000/- towards attender charges, and hence, this Court is of the view that the amounts awarded under those heads needs no modification.

11. Though the award of the Tribunal indicates that the appellants are entitled for something more towards compensation as pending appeal the appellant died, this Court is unable to quantify any amount. The appellants



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have put forth their claim only on the basis of the claim petition. However, in the absence of any specific pleadings or materials, this Court is unable to grant any further amount towards additional expenses.

12. At this juncture, it is represented by the learned counsels appearing on either side that the second respondent/Insurance Company deposited the entire compensation as awarded by the Tribunal and the same was also withdrawn by the appellants. The said statement is recorded.

13. In view of the above, this Court is of the opinion that as the first appellant/claimant is no more, the legal representatives of the first appellant may not suffer any loss on account of denial of the victim's claim and hence, this appeal is liable to be dismissed. Accordingly, this appeal is dismissed. No costs.

(S.S.S.R.J.) (N.M.J.)
30.11.2022

Index : Yes / No
Speaking order: Yes/No
pvs



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To

1. The Motor Accidents Claims Tribunal,
II Judge, Court of Small Causes, Chennai
2. The Section Officer,
VR Section High Court, Madras.



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S.S.SUNDAR, J.
and
N.MALA, J.

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