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C.M.A.No.2560 of 2022

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 21.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2560 of 2022

and

CMP.No.19901 of 2022

M/s. Liberty General Insurance Company Ltd
Anmol Palani No 88 G.N. Chetty Road
Level 4 Unit ES and FS
T. Nagar Chennai 600 017.

... Appellant

Vs.

- 1.Tmt. Shanthi
- 2.Thirumumaran
- 3.Yogalakshmi
- 4.Tmt.Thnmozhi

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Judgment and Decree in M.C.O.P.No.6465 of 2016 on the file of the learned II Judge, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai.



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For Appellant : Mr.E.Raja Durai

For Respondents : Mr.K.Varadha Kamaraj
for R1

JUDGMENT

The Insurance Company is the appellant before this Court challenging the quantum of compensation that has been granted in MCOP.No.6465 of 2016 dated 09.12.2021 on the file of the Motor Accidents Claims Tribunal II Court of Small Causes Chennai.

2.The appellant is aggrieved by the fact that without any document being produced, the Tribunal has fixed the monthly income at Rs.15,000/- though the petitioners had contended that the deceased was a film promoter. The claimants/petitioners are aggrieved by the fact that though the petitioners are three in numbers, namely, the wife and the children of the deceased Sakthivel, the compensation under the head of loss of love and affection has been granted only for a sum of Rs.40,000/-.



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

4.Though the petitioners had claimed that the deceased Sakthivel was a film promoter, except for producing Ex.P.8 and Ex.P.9 - Identity Cards, the petitioners have not produced any other document either in the form of income tax returns or any other form to show the monthly income of the deceased. Therefore, the monthly income can be fixed at Rs.13,500/- to which considering the age of the deceased which was 53 years, 10% can be added towards future prospects which works out to a sum of Rs.14,850/-. Out of this, 1/3 has to be deducted towards personal expenses and the monthly income would be Rs.9,900/-. Therefore, the amounts under the head of loss of dependency would be a sum of Rs.13,06,800 (Rs.9,900/- x 12 x 11= Rs.13,06,800).



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5.Further, though there are three claimants, namely, the wife and two children, the Tribunal has also awarded a sum of Rs.40,000/- under the head of loss of love and affection. Therefore, a sum of Rs.40,000/- each is awarded under the head of loss of love and affection to the two children. A sum of Rs.40,000/- is awarded under the head of loss of consortium to the 1st petitioner. In all other respects, the Award remains unaltered. 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 dependency	Rs.14,52,000/-	Rs.13,06,800/-	Reduced
2.	Loss of estate	Rs.15,000/-	Rs.15,000/-	Confirmed
3.	Loss of love and affection	Rs.40,000/-	Rs.80,000/-	Enhanced
4.	Funeral expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
5.	Loss of consortium	-	Rs.40,000/-	Granted
		Rs.15,22,000/-	Rs.14,56,8000/-	



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6. Accordingly, this Civil Miscellaneous Appeal is partly allowed. The appellant is directed to deposit the entire amount, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.6465 of 2016 on the file of the learned II Judge, Motor Accidents Claims Tribunal, Court of Small Causes, Chennai, within a period of four weeks from the date of receipt of a copy of this order, if not deposited earlier. On such deposit, the claimants 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



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been produced by the claimants. No costs. Consequently, connected
Miscellaneous Petition is closed.

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

To

The II Judge,
Motor Accidents Claims Tribunal,
Court of Small Causes,
Chennai.



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P.T. ASHA, J,

mps

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