



CMA.No.499 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CMA.No.499 of 2017

- 1.Manimekalai
- 2.Samidurai
- 3.Seneka

...Appellants / Claimants

Vs.

- 1.Arokkiyasamy
- 2.Balamurugan
- 3.The National Insurance Company Limited,
First Floor, Karthikeya Complex,
No.403, B-10, Mettur Main Road,
Bhavani – 638 302.

(Respondents 1 and 2 were set exparte
before the Tribunal, hence notice may
be dispensed with)

..Respondents / Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to enhance the compensation amount awarded in the judgment and decree dated 23.01.2015 made in MCOP.No.566 of 2013 on the file of the Motor Accident Claims Tribunal / Special District Court, Erode.



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For Appellant : Mr.M.Guruprasad
For R1 & R2 : Ex-parte
For R3 : Mr.J.Chandran

J U D G M E N T

This appeal has been filed questioning the quantum granted as compensation in MCOP.No.566 of 2013 by the learned Special District Judge, Erode / Motor Accident Claims Tribunal, District Court, Erode.

2.The 1st appellant is the mother, and the 2nd appellant is the father and the 3rd appellant is the younger sister of the deceased Vinoth @ Vinoth Kumar who was aged 20 years and was studying 2nd year B.Sc., Hotel Management Course at Amman Arts and Science College, Chithode. It is claimed that he was also working part time at marriage functions in and around Erode.

3.Learned counsel for the appellants pointed out that part time catering work during Hotel Management studies are encouraged so that the students would get practical training in catering and other related aspects. It is also stated that owing to such occupation, income is also earned by the students.



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4.The accident took place on 22.10.2013 wherein, the motor cycle in which the deceased was travelling was hit by a lorry bearing registration number TN-28-Y-2498. The learned Tribunal had thought it was owing to the rash and negligent manner in which the lorry was driven by the driver, the accident occurred. By judgment dated 23.01.2015, the Tribunal had granted a total compensation of Rs.6,73,000/-. The compensation breakup was as follows:

<i>Loss of dependency</i>	<i>Amounts</i>
Monthly income	Rs.4,000/-
50% to be added as future prospects Rs.4000 x 50/100	Rs.2,000/-
Total monthly income Rs.4,000 + 2,000	Rs.6,000/-
For the personal expenditure of the deceased 50% to be deducted Rs.6,000 x 50/100	Rs.3,000/-
Monthly contribution to the family Rs.6,000 – Rs.3,000	Rs.3,000/-
Annual contribution to the family Rs.3,000 x 12	Rs.36,000/-
By applying multiplier 18 Rs.36,000 x 18	Rs.6,48,000/-
<i>Head</i>	<i>Amount</i>
Total amount for Loss of dependency	Rs.6,48,000/-
For funeral expenditure	Rs.10,000/-
For loss of estate	Rs.10,000/-
For Transportation	Rs.5,000/-
Total	Rs.6,73,000/-



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5.The claimants are in appeal.

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6.The Tribunal had fixed the monthly income of Rs.4,000/-, but in view of the representations made with respect to part time job facilities available and as a matter of fact which is also obvious, I would revise the monthly income to Rs.6,000/-. The learned Tribunal had fixed future prospects at 50% of income, but I would rather grant 40% towards the same. I also find that towards love and affection no compensation has been granted. I would grant a sum of Rs.40,000/- under that particular head. The other compensations are not interfered with by me. This would indicate that the total compensation payable is as follows:

<i>Loss of dependency</i>	<i>Amounts</i>
Monthly income	Rs.6,000/-
40% to be added as future prospects Rs.6000 x 40/100	Rs.2,400/-
Total monthly income Rs.6,000 + 2,400	Rs.8,400/-
For the personal expenditure of the deceased 50% to be deducted Rs.8,400 x 50/100	Rs.4,200/-
Monthly contribution to the family Rs.8,400 – Rs.4,200	Rs.4,200/-
Annual contribution to the family Rs.4,200 x 12	Rs.50,400/-
By applying multiplier 18 Rs.50,400 x 18	Rs.9,07,200/-



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<i>Head</i>	<i>Amount</i>
Total amount for Loss of dependency	Rs.9,07,200/-
For funeral expenditure	Rs.10,000/-
For loss of estate	Rs.10,000/-
For Transportation	Rs.5,000/-
For love and affection	Rs.40,000/-
Total	Rs.9,72,200/-

7.The Civil Miscellaneous Appeal is partly allowed to that extent enhancing the compensation which had been determined as Rs.6,73,000/- to Rs.9,72,200/-. The other aspects in the order shall remain the same. The Insurance company shall deposit the difference in compensation amount i.e., Rs.2,99,200/- with interest of 7.5% from the date of filing of the petition till the date of deposit within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the 1st appellant / 1st claimant is permitted to withdraw the same. No order as to costs.

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Index: Yes/No

Internet: Yes/No

Speaking / Non-speaking order

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To:-

1.The Motor Accident Claims Tribunal / Special District Court, Erode



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C.V.KARTHIKEYAN, J.

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