



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.4312 of 2019

- 1.Habeeb Rahman
- 2.Shaheera Banu
- 3.Boushia Femina
- 4.Nagoor Sulthan

...Appellants/Claimants

vs.

- 1.Ram Vilas Deshpande

- 2.The New India Assurance Co. Ltd.,
Motor third Party Claims Office,
No.232, Bombay Mutual Building,
6th Floor, N.S.C.Bose Road, Chennai-1.

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 27.06.2019 in M.C.O.P.No.6657 of 2016 on the file of the Motor Accident Claims Tribunal Small Causes Court No.III, Chennai.

For Appellant : Mr.R.Nalliyappan

For Respondents : Mrs.S.R.Sumathy[R2]
R1 - No Appearance

JUDGMENT

Aggrieved by a very meagre award granted by the Motor Accident Claims Tribunal Small Causes Court No.III, Chennai, in M.C.O.P.No.6657 of 2016, the claimants are before this Court.

2. The brief facts running up to the filing of the appeal are as follows:

One Hithayath Nisa, wife of the 1st respondent and mother of the respondents 2 to 4 had met with an accident on 07.10.2016 at 18.00 hours, when she was walking on the junction of Velacherry Main Road from west to east direction, while so, the Car bearing Reg.No.GJ-16-AA-8741 coming in the opposite direction and driven in a rash and negligent manner



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dashed against the deceased. On account of the impact, the said Hithayath Nisa, has died on the spot. Therefore, the claimants had come forward with the above claim petition seeking compensation of a sum of Rs.26,00,000/-. It is their contention that their mother was working as a tailor and earning a sum of Rs.15,000/- p.m. Both the respondents remained exparte, the Tribunal below held the driver of the 1st respondent car to be negligent and since the car was insured with the 2nd respondent, held both the respondents are liable to compensate the claimants.

3. As regards quantum, a notional income Rs.6,500/- was fixed, to which 10% has to be added for future prospects. Taking into account her age, and after deducting 1/4th towards personal expenses, the loss of dependency was arrived at a sum of Rs.7,07,850/-. The amounts were granted under the head of loss of consortium, loss of love and affection and medical expenses etc., The claimants were aggrieved by the fact that the only a notional income of Rs.6,500/- had been taken when it is their case that the deceased was a tailor by profession earning a monthly income of Rs.15,000/-.

4. The learned counsel for the appellants would reiterate these contentions in his arguments. The learned counsel appearing for the 2nd respondent/Insurance Company who remained exparte before the Tribunal would contend that the award is fair and reasonable one and does not require any revision.

5. Heard the learned counsel on either side and perused the records.

6. Admittedly, the claimants who have stated that the deceased was employed as a Tailor has not produced any shred of evidence to prove the the same. Therefore, even if we consider the deceased to be a home maker, a home makers contribution to the house is also to be quantified monetarily. Therefore, it would be just and reasonable to fix the notional income at a sum of Rs.7,500/- to which future prospects of 10% has to be added. Therefore, the income would worked out to Rs.8,250/- out of this 1/4th has to be deducted towards personal expenses, which is a sum of Rs.2062. Therefore, the contribution to her family by the deceased would be at Rs.6,188/-. She was aged 53 years, therefore, the multiplier to be applied is 11. Therefore, the amount under the head of Loss of Dependency would be Rs.6,188/- X 12 X 11 = Rs.8,16,816/-. In all other aspects, the award of the Tribunal remains unaltered. Therefore, the modified award by this Court would be as follows:



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S.No.	Description	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted or reduced
1	Loss of Dependency Rs.6,188/- X 12 X 11 = Rs.8,16,816/-.	Rs.8,16,816/-	Enhanced
2	Loss of Consortium	Rs. 40,000/-	Confirmed
3	Loss of Love and Affection	Rs. 60,000/-	Confirmed
4	Parental Consortium	Rs. 75,000/-	Confirmed
5	Medical Expenses	Rs. 10,000/-	Confirmed
6	Funeral Expenses	Rs. 15,000/-	Confirmed
	TOTAL	Rs.10,16,816/-	

7. In the result, this Civil Miscellaneous Appeal is allowed and the compensation of Rs.9,08,000/- awarded by the Tribunal is hereby Enhanced to a sum of Rs.10,16,816/-. Therefore, the 2nd respondent / Insurance Company is directed to deposit the enhanced amount of Rs.10,16,816/- to the credit of M.C.O.P.No.6657 of 2016 on the file of the Motor Accident Claims Tribunal Small Causes Court No.III, Chennai, together with interest @ 7.5% per annum from the date of claim petition till the date of deposit and costs, less, the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the claimants are permitted to withdraw the amount now determined by this Court, as apportioned by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. The claimants are directed to pay the Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time as the certified copy showing proof of payment of Court fee has been produced by the claimants. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

ssn

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Motor Accident Claims Tribunal,
Small Causes Court No.III,
Chennai.

2.The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

+1cc to Mr.R.Nalliyappan, Advocate SR. No. 24827

C.M.A.No.4312 of 2019

NMI (CO)
PR (06/05/2022)