



C.M.A.No.2362 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.2362 of 2018

S.Vennila

... Appellant

vs.

1.The Managing Director,
Puducherry Road Transport Corporation Limited,
No.4, Iyyanar Koil Street, Raja Nagar,
Puducherry.

2.The Chief Manager,
The Oriental Insurance Company Ltd.,
Third Party Claim Hub,
New No.216, Old No.115, Prakasam Salai,
Broadway, Chennai-600 018.

3.Dhayalan

4.Mallika

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Decree and Judgment dated 03.08.2017 in M.C.O.P.No.3084 of 2015 on the file of the Motor Accidents Claims Tribunal Judge, Principal District Judge, Cuddalore.



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For Appellant : M/s.Ramya V.Rao
For Respondents : Mr.A.R.Nixon [R1]

Mr.M.J.Vijayaraghavan [R2]

Notice Served [R3 and R4]

JUDGMENT

The claimant who filed the claim petition is the appellant before this Court seeking an enhancement of compensation awarded by the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore in M.C.O.P.No.3084 of 2015.

2. The petitioner had filed the claim petition claiming compensation for the death of her husband Sakthivel in the road accident on 03.06.2015 at 21.30 Hours. On the said date, her husband was riding his Hero Honda bike on the Cuddalore – Puducherry main road and proceeding in a north to south direction. The 1st respondent's bus came in the opposite direction in a rash and negligent manner with a great speed and dashed against the motor cycle of the deceased. As a result of which, he sustained fatal injuries and succumbed to the injuries. Therefore, the petitioner has filed the claim petition seeking compensation of a sum of Rs.20,00,000/- since the



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deceased Sakthivel who was 29 years old, working as mason earning a sum of Rs.18,000/- per month. The Tribunal below held that the negligence was solely on the part of respondents 1 and 2 and as regards quantum, the Tribunal has taken a sum of Rs.6,500/- as the notional monthly income and awarded compensation for a sum of Rs.8,84,000/- under the head of loss of earning capacity. The Tribunal has awarded Rs.1,00,000/- under the head of loss of consortium and Rs.50,000/- towards loss of love and affection and a sum of Rs.25,000/- towards Transportation and funeral expenses.

3. The petitioner is aggrieved by the fact that the Tribunal has taken only a notional income of Rs.6,500/- per month despite the fact that the deceased was employed as a mason and he could have easily earned a monthly income of Rs.10,000/- that apart, no amount has been added towards future prospects.

4. Heard the learned counsels on either side and perused the materials on record.

5. The amount payable under the head of loss of income has to be



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enhanced by adopting a monthly notional income of Rs.10,000/- to which

40% Future Prospects has to be added. This works out to Rs.14,000/- X 12

X 17 = Rs.28,56,000/-. From this, one third has to be deducted towards

personal expenses and therefore, a sum of Rs.19,04,000/- is now awarded

under head of pecuniary benefits. Under the head of loss of consortium, the

Tribunal had awarded a sum of Rs.1,00,000/- which has been reduced to

Rs.40,000/-. Likewise, under the head of Loss of Love and Affection,

Rs.50,000/- has been granted, which shall be increased to Rs.80,000/- and

Under the head of Transportation and Funeral Expenses, a sum of

Rs.25,000/- has been granted, the same shall be reduced to Rs.15,000/-. No

amount has been granted under the head of loss of Estate, for which, a sum

of Rs.15,000/- shall be awarded. Therefore, the Compensation awarded by

the Tribunal is reworked as below:

<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed or enhanced or granted or reduced</i>
1	Loss of Pecuniary benefits	Rs. 8,84,000/-	Rs.19,04,000/-	Enhanced
2	Loss of Consortium	Rs. 1,00,000/-	Rs. 40,000/-	Reduced



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<i>S.No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed or enhanced or granted or reduced</i>
3	Loss of Love and Affection	Rs. 50,000/-	Rs. 80,000/-	Enhanced
4	Transportation and Funeral Expenses	Rs. 25,000/-	Rs. 15,000/-	Reduced
5	Loss of Estate	Nil	Rs. 15,000/-	Granted
	TOTAL	Rs.10,60,000/-	Rs.20,54,000/-	

6. In the result, this Civil Miscellaneous Appeal is allowed and the compensation of Rs.10,60,000/- awarded by the Tribunal is hereby Enhanced to a sum of **Rs.20,54,000/-**. Therefore, the 1st respondent/Transport Corporation and the 2nd respondent/Insurance Company are directed to deposit the enhanced amount of **Rs.20,54,000/-** to the credit of M.C.O.P.No.3084 of 2015 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Cuddalore, together with interest @ 8% 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



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being made, the claimants are permitted to withdraw the amount now determined by this Court.

7. Considering the fact that the respondents 3 and 4 who are also the respondents before the Tribunal has not challenged the Award passed in M.C.O.P.No.3084 of 2015 by the learned Principal District Judge, Cuddalore, Motor Accidents Claims Tribunal, Cuddalore, it can be presumed that they are not aggrieved by the amount of compensation granted. It is only the appellant who is aggrieved by the said award and has paid the Court Fee to file the appeal. Therefore, she shall alone be entitled to the same. This Court is inclined to grant the enhanced amount to the appellant, since she is the wife of deceased Sakthivel and now a single woman, the enhanced amount shall be paid to the appellant/wife along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal. The respondents 3 and 4 shall be entitled to withdraw the amount awarded by the Tribunal with proportionate accrued interest and costs.

8. The appellant/wife of the deceased is directed to pay the Court fee



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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 appellant.

No costs.

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Index : Yes/No
Speaking / Non-speaking order
ssn

To:

1. The Motor Accidents Claims Tribunal,
Principal District Judge,
Cuddalore.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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P.T.ASHA, J.,

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