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C.M.A.No.1858 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1858 of 2020

1.Latha
2.Kabaliswaran
3.Santhanalakshmi
4.Minor.C.Prathyakshan
Rep. by his Mother and next friend
Mrs.Latha

... Appellants

Vs.

1.Mohd. Arif
(Since R1 remained exparte before Tribunal
his presence may be dispensed with)

2.Cholamandalam MS General Insurance Company Limited,
having its office at
2nd Floor, Dare House,
No.2, N.S.C.Road,
Chennai – 1.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award dated 19.07.2019 and made in M.A.C.T.O.P.No.648 of 2013 on the file of the Motor Accidents Claims Tribunal, the IV Additional District Judge, Ponneri in so far as it relates to the quantum of compensation.



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For Appellants : Ms.A.Subadra
for M/s.K.M.Ramesh

For Respondents : R1 – NDW
Ms.R.Sree Vidhya for R2

J U D G M E N T

This appeal has been filed by the appellants/ claimants challenging the award passed in M.C.O.P.No.648 of 2013 dated 19.07.2019 on the file of the Motor Accidents Claims Tribunal, the IV Additional District Judge, Ponneri.

2.The brief facts of the case is that on 06.05.2013 at about 04.30 p.m., the deceased Chandramouli was walking at G.N.T. Road, Panchetty near B.G.R.Company. At that time, the driver of the Trailor Lorry bearing Registration No.RJ-01-GA-7345 drove the vehicle in a rash and negligent manner and dashed against the deceased, due to which, the deceased died on the way to Hospital.

3.Thereafter, the dependants of the deceased Chandramouli/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.20 Lakhs as compensation. After adjudication, the Tribunal awarded a sum of Rs.14,20,000/- as



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compensation along with interest at the rate of 7.5% per annum from the date of petition and proportionate costs. Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants submitted that the appellants have filed this appeal questioning the quantum of compensation. The learned counsel further submitted that the Hon'ble Apex Court in Syed Sadiq case fixed Rs.6,500/- as the notional income of the vegetable vendor. In the present case, the deceased was employed as Temple Priest and he earned atleast Rs.500/- per day which would be more than Rs.15,000/- per month, however, the Tribunal has fixed only a sum of Rs.10,000/- as the notional monthly income of the deceased including future prospects and awarded compensation, which is very meagre. Hence, the appellants are entitled for enhancement in compensation.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the amount awarded by the Tribunal is just and reasonable and warrants no interference.



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6.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the second respondent and perused the materials available on record.

7.The accident and the manner in which the accident happened are not disputed. The only dispute is with regard to the quantum of compensation awarded by the Tribunal.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.13,50,000/- for loss of dependancy, Rs.40,000/- for loss of consortium, Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate and arrived at a total compensation of Rs.14,20,000/- with interest at the rate of 7.5% p.a. from the date of petition.

9.The Hon'ble Apex Court in Syed Sadiq case fixed Rs.6,500/- as the notional income of the vegetable vendor in the year 2008. In the present case, the accident happened during the year 2013 and the claimants claim that the deceased was working as Temple Priest. The Tribunal has fixed the monthly income of the deceased as



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Rs.10,000/- considering the future prospects also, however, this Court fix the monthly income of the deceased as Rs.10,000/- and is inclined to award the amount for future prospects separately. The Tribunal has rightly deducted $\frac{1}{4}$ towards his personal expenses. Hence, after deducting $\frac{1}{4}$ towards his personal expenses, the monthly income of the deceased comes to Rs.7,500/-. The deceased was aged 40 years at the time of death. The Tribunal has rightly adopted the multiplier 15. Hence, the actual loss of dependancy works out to Rs.13,50,000/- [Rs.7,500/- X 12 X 15 = Rs.13,50,000/-]. This Court awards 40% of actual loss of dependancy towards future prospects and the same works out to Rs.5,40,000/- [40% of Rs.13,50,000/- = Rs.5,40,000/-].

10.This Court is of the opinion that some amount has to be awarded for loss of love and affection. Accordingly, this Court awards a sum of Rs.1,60,000/- [Rs.40,000/- each] for loss of love and affection. Since this Court has awarded a sum of Rs.40,000/- each for loss of love and affection, the amount awarded under the head consortium, in the opinion of this Court is not necessary and the same is deleted. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are



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confirmed.

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11. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of Dependency	Rs.13,50,000/-	Rs.13,50,000/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
3.	Loss of Love and affection	---	Rs. 1,60,000/-
4.	Loss of Consortium	Rs. 40,000/-	---
5.	Loss of Estate	Rs. 15,000/-	Rs. 15,000/-
6.	Future Prospects 40%	---	Rs. 5,40,000/-
	Total	Rs.14,20,000/-	Rs.20,80,000/-

12. The claimants are entitled to total compensation of Rs.20,80,000/- along with interest at the rate of 7.5% p.a. from the date of petition.

13. The civil miscellaneous appeal is partly allowed. The award made in M.C.O.P.No.648 of 2013 dated 19.07.2019 by the Motor Accidents Claims Tribunal, the IV Additional District Judge, Ponneri, is modified to the above extent.



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14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal

within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the appellants 1 to 3/ claimants 1 to 3 are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The fourth claimant/ fourth appellant is permitted to withdraw his share as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to his majority. If the fourth claimant/ fourth appellant is still minor, his share shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until he attain majority and the interest derived from out of the said share of the minor shall be paid to the first claimant/ mother every quarter to be utilized for the welfare of the said minor.



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15.The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellants/

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claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, the IV Additional District Judge, Ponneri, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

16.The civil miscellaneous appeal is partly allowed. No costs.

14.12.2023

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal/
IV Additional District Judge, Ponneri.

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