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CMA No.3411 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2023

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

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1. Lakshmi
2. Minor Praveen @ Praveen Kumar
3. Minor Preetha @ Preethi
4. Minor Pratheesh
Minors 2 to 4 represented by their mother
Lakshmi Natural Guardian
5. Mariappan ... Appellants

versus

1. S. Ravi
2. New India Assurance Company Ltd.,
Divisional Office,
G.N. Chetty Road,
T. Nagar,
Chennai – 17. Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and award dated 29.07.2009 passed in M.C.O.P. No.837 of 2007 on the file of the Motor Accidents Claims Tribunal (Principal District Court), Krishnagiri.

For Appellants : Mr. P. Mani
For Respondents : R1 - NRN
Mr.K. Padmanabhan for R2



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JUDGMENT

This appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 29.07.2009 passed by the Motor Accidents Claims Tribunal, Principal District Court, Krishnagiri, in MCOP No.837 of 2007.

2. The appellants are the dependants of the deceased M.Annamalai, who died on 16.01.2007 as a result of an accident caused by a lorry bearing Reg. No.AP 03 U 0646 owned by the first respondent and insured with the second respondent. The 1st appellant is the wife of the deceased and the appellants 2 to 4 are the children of the deceased and the 5th appellant is the father of the deceased. For the death of the deceased, the appellants have filed a claim petition before the Tribunal claiming compensation of Rs.10,00,000/-

3. Before the Tribunal, the appellants / claimants have filed 4 documents which were marked as Exs.P1 to P4 and 2 witnesses were examined on their side viz., the first appellant, who is the wife of the deceased as PW1 and Mr.Murugan, an eye witness to the accident as PW2. On the side of the respondents neither any document has been



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filed nor any witness has been examined before the Tribunal. After adjudication, the Tribunal has awarded the compensation under various heads as follows :-

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Loss of income (Rs.2,250 x 12 x 15)	4,05,000/-
Loss of estate	5,000/-
Loss of consortium	10,000/-
Loss of transportation and funeral expenses	5,000/-
Total	4,25,000/-

4. The appellants / claimants unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award have preferred this appeal seeking for enhancement.

5. The learned counsel for the appellants submitted that the deceased was aged about 35 years at the time of the accident and he was working as an agricultural labourer and earning a sum of Rs.4500/- per month. Without considering the said fact, the Tribunal has fixed the notion income of the deceased at Rs.3000/- and deducted $\frac{1}{4}$ amount and awarded Rs.4,05,000/- towards loss of income which is very low and the



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same requires interference. Further, awarding compensation under loss of consortium is very low and the Tribunal has not awarded any compensation in respect of loss of love and affection to the children, which they are entitled to. The other heads awarded to the appellants by the Tribunal are very meager and the same has to be enhanced.

6. The learned counsel for the insurance company submitted that the Tribunal, after analyzing the witnesses and documentary evidence, has rightly passed award, which does not warrant any interference.

7. Heard Mr.P. Mani, learned counsel for the appellants/ claimants and Mr.K. Padmanabhan, learned counsel for the second respondent/Insurance Company. The first respondent remained ex-parte both before the Tribunal and before this Court.

8. The appellants are the claimants. Admittedly, the first appellants husband died due to the accident. The accident had occurred only due to the rash and negligent driving of the lorry which was owned by the first respondent and insured with the second respondent. It is the main grievance of the appellants that the Tribunal has awarded meager



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compensation to the appellants and prays to enhance the same.

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9. On a perusal of the impugned order, it is found that the deceased was working as agricultural coolie and aged about 35 years and was earning a sum of Rs.4500/- per month at the time of the accident. As per the judgment passed by the Hon'ble Apex Court in the case of *Sarla verma*, the Tribunal has adopted '15' multiplier and deducted 1/4th from the income of the deceased and fixed the notional income Rs.3000/- per month as the appellants have not proved the income of the deceased. The Tribunal has awarded a sum of Rs.4,05,000 towards loss of income and the same needs modification. As per the decision of the *Syed Sadiq* case, this Court fixes the monthly income of the deceased at Rs.4500/- and awarded the compensation towards loss of income as follows:

$$\text{Rs.4000} \times \frac{1}{4}^{\text{th}} = \text{Rs.3375} \times 12 \times 16$$

$$= \text{Rs.6,48,000/-}$$

Further, the Tribunal has not awarded any amount in respect of future prospects and the appellants are entitled to get compensation in respect of future prospects at 40% as the deceased is aged about 35 years at the time of the accident.

$$\text{Future prospects (40\%)} = \text{Rs.2,59,200/-}$$



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The Tribunal has awarded in respect of other heads, which are very low and the same has to be modified.

10. The award amount of compensation is modified under the following heads :-

Sl.No	Heads	Amount awarded by the Trial Court (Rs.)	Amount awarded by this Court (Rs.)
1	Loss of income (Rs.2,250 x 12 x 15)	4,05,000/-	6,48,000
2	Loss of estate	5,000/-	15,000
3	Loss of consortium	10,000/-	40,000
4	Loss of transportation and funeral expenses	5,000/-	10,000
5	Future prospects		2,59,200
6	Love and affection		1,60,000 (4X 40,000/-)
7	Loss of estate		15,000
	Total	4,25,000/-	11,47,200/-

11. With the above modification, the order of Tribunal in MACTOP No.837/2007 is modified and this appeal is partly allowed.

12. The Compensation amount of Rs.4,25,000/- is enhanced to



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Rs.11,47,200/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The second respondent -Insurance Company is directed to deposit the entire award amount as ordered by this Court with interest and thereafter, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants / claimants are permitted to withdraw the same, on making proper application before the Tribunal. The apportionment of compensation between the claimants shall be as ordered by the Tribunal. No costs.

13.10.2023

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
rli

To
1. The Principal District Judge,
Motor Accidents Claims Tribunal,
Krishnagiri.
2. The Section Officer,
V.R. Section
High Court of Madras, Chennai - 104.



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M.DHANDAPANI, J.

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