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C.M.A.No.2032 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

C.M.A.No.2032 of 2023

1.Anitha

2.Priyadarshini (Minor),
Represented by the 1st appellant mother and
natural Guardian

3.Meena

... Appellants

[Cause title accepted vide Court order
dated 21.04.2023 made in
C.M.P.No.7216 of 2023 in C.M.A
No.Sr3093 of 2023]

Versus

1.M.Anoop

2.The United India Insurance Company,
No.134, Greams Road,
Chennai -6.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 30 of the Employee's Compensation Act, against the award dated 20.01.2021 made in E.C.No.87 of 2013, on the file of the Joint Commissioner of Labour-I, Chennai.



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For Appellants : Mr.A.G.F.Terry Chella Raja

WEB COPY For R2 : Mr.J.Micheal Visvasam

JUDGMENT

This appeal has been filed by the appellants/claimants challenging the compensation awarded by the Joint Commissioner in E.C.No.87 of 2013, dated 20.01.2021.

2.The claim petition was filed stating that the 1st appellant's husband was working as driver under the 1st respondent; that on 01.05.2012 at about 10.00 a.m., while he was driving the van bearing Regn No. TN-20-BD-7188 belonging to the 1st respondent, the said van dashed against the lorry; that due to the said accident, the 1st appellant's husband sustained fatal injuries and thus, the appellants are entitled for compensation.

3.The 1st respondent/owner of the van remained *ex-parte* before the Joint Commissioner.

4.The 2nd respondent/Insurance Company filed a counter denying all the averments made in the claim petition and stated that the 1st



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respondent had never informed the 2nd respondent about the accident and the appellants have also not sent any notice of claim to the respondents and hence, the 2nd respondent was not liable to pay any compensation to the appellants; that in any case, the compensation claimed was excessive and prayed for dismissal of the claim petition.

5.Before the Joint Commissioner, the appellants examined one witness and marked Ex.P.1 to Ex.P.10 on their side. The respondents had not examined any witness or marked any document.

6.The Joint Commissioner after considering the oral and documentary evidence directed the 2nd respondent to pay a sum of Rs.7,03,582/- as compensation to the appellants.

7.Aggrieved over the award passed by the Joint Commissioner, the appellants filed the present appeal seeking for enhancement of compensation.

8.The learned counsel for the appellants submitted that having rightly found that the appellants are entitled for compensation, the Joint



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Commissioner fixed the monthly income of the deceased at Rs.6,784/-, which is meagre; that the incident took place on 01.05.2012 and at the relevant point of time, the wages fixed by the Central Government is Rs.8,000/- and hence, the Joint Commissioner ought to have fixed Rs.8,000/- as the income of the deceased; that thus, prayed for enhancement of compensation.

9.The learned counsel for the appellants further submitted that the 1st respondent remained *ex-parte* before the Joint Commissioner and hence, he prayed to dispense with notice to the 1st respondent and he has also made an endorsement to that effect. Hence, notice to the 1st respondent is dispensed with.

10.The learned counsel for the 2nd respondent per contra fairly submitted that the wages as per the Central Government notification is Rs.8,000/- and hence, the compensation may be enhanced on that basis.

11.In view of the settled position that the wages fixed by the Central Government at the relevant point of time is Rs.8,000/-, the Joint Commissioner ought to have computed the compensation on that basis.



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Therefore, the monthly income has to be fixed at Rs.8,000/- and the compensation under loss of income has to be computed as follows:

$$\text{Rs.8,000/-} \times 50/100 \times 205.95 = \text{Rs.8,23,800/-}$$

The amount awarded by the Joint Commissioner towards Funeral Expenses is just and reasonable and the same is confirmed. Thus, the compensation awarded by the Joint Commissioner is modified as follows:-

S. No	Description	Amount awarded by Joint Commissioner (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income	6,89,582	8,23,800	Enhanced
2.	Funeral Expenses	5,000	5,000	Confirmed
	Total	7,03,582	8,28,800	Enhanced by Rs.1,25,218/-

12. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Joint Commissioner at Rs.7,03,582/- is hereby enhanced to Rs.8,28,800/-, together with interest at 7.5% per annum (excluding the default period, if



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any) from the date of petition till the date of deposit. The 1st appellant would be entitled to Rs.4,28,800/-. The 2nd appellant (minor) is entitled to Rs.3,00,000/- and the 3rd appellant would be entitled to Rs.1,00,000/-. The 2nd respondent/Insurance Company is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of a receipt of copy of this Judgment. On such deposit, the appellants 1 and 3 are permitted to withdraw their respective share of the award amount now determined by this Court, along with proportionate interest and costs, less the amount already withdrawn, if any. The share of the minor 2nd appellant is directed to be deposited in any one of the nationalised bank till the minor attains majority. The 1st appellant-mother of the 2nd appellant is permitted to withdraw the accrued interest once in three months. The appellants are directed to pay the necessary Court fee, if any on the enhanced award amount. No costs.

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To:

- 1.The Joint Commissioner of Labour-I,
Chennai.
- 2.The Section Officer,
VR Section,
High Court, Madras.



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SUNDER MOHAN, J.

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