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C.M.A.No.105 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2023

CORAM : JUSTICE N.SESHASAYEE

C.M.A.No.105 of 2023

1.B.Geetha

2.B.Sangeetha

3.Minor B.Deepa (12 years)

[Minor 3rd appellant is represented by her mother
and next friend, guardian 1st appellant herein]

..... Appellants / Petitioners

Vs

1.S.Devi

2.United India Insurance Co. Ltd.,
Third Party Hub, Silinghi Building
No.134, Greaves Road,
Chennai - 600 006.

..... Respondents / Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 praying to enhance the compensation amount made in judgment and decree dated 13.06.2022 made in M.C.O.P.No.1076 of 2018 on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai, by allowing this appeal.



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For Appellants : Mr.SP.Yuaraj

For Respondents : Mr.J.Michael Visuvasam for R2
R1 - Dispensed with

JUDGMENT

The claimants in M.C.O.P.No.1076 of 2018 before the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai, are the appellants herein. They have filed this appeal as they feel aggrieved by the inadequacy of the compensation awarded by the Tribunal.

2. On 10.04.2017, a certain Balasubramaniam was fatally knocked down by an auto rickshaw belonging to the first respondent and insured with the second respondent, when the victim was crossing the road. The victim was 45 years old at that relevant time and was stated to be a newspaper distributor. Seeking compensation, his dependants approached the Tribunal with a claim of Rs.30.0 lakhs, however, the Tribunal had passed an award for Rs.14,74,000/-.

2.2 While awarding compensation, the Tribunal had reckoned the age of the



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victim as 47 years, fixed his notional monthly income as Rs.10,000/-, and applied 13 as a multiplier, to which it added 25% towards future prospects for increase in income and reduced the sum arrived to 1/3, and arrived at Rs.13,00,000/- as the nett value of compensation on loss of dependency. After providing for other conventional heads of compensation, it arrived at Rs.14,674,000/-. The break-up is as below :

<i>Sl.No.</i>	<i>Heads of Compensation</i>	<i>Award of Tribunal (Rs.)</i>
1	Loss of dependency	13,00,000.00
2	Loss of estate	16,500.00
3	Funeral expenses	16,500.00
4	Loss of consortium	1,32,000.00
5	Transportation expenses	5,500.00
6	Attender charges	3,500.00
Total :		14,74,000.00

This is now under challenge.

3. The learned counsel for the appellants submitted that the Tribunal had ignored Ext.P2, postmortem certificate where the age of the victim was mentioned as 45. This apart, in an accident that had taken place in 2017, it had fixed the notional monthly income rather unrealistically.



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4. The learned counsel appearing for the insurance company however defended the award and the approach of the Tribunal.

5. Heard both sides. On a careful consideration of the submissions made on rival sides, this Court considers that there is no reason why the Tribunal had ignored Ext.P2 for reckoning the age of the victim. This apart, even going by the cost of living in 2017, it would be reasonable to fix Rs.12,500/- as notional monthly income. Accordingly, this Court fixes the monthly income of the victim at Rs.12,500/-, to which it adds another 25% towards future prospects for increase in income, and applies 14 as multiplier, and reduce the sum arrived by 1/3rd and determines the compensation payable under the head of loss of dependency at Rs.17,50,000/-. This Court does not purport to interfere with the compensation paid on other heads, since they are found to be just and reasonable. The award amount is accordingly re-worked and provided below :

<i>Sl.No.</i>	<i>Heads of Compensation</i>	<i>Revised Award (Rs.)</i>
1	Loss of dependency	17,50,000.00
2	Loss of estate	16,500.00
3	Funeral expenses	16,500.00
4	Loss of consortium	1,32,000.00
5	Transportation expenses	5,500.00



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<i>Sl.No.</i>	<i>Heads of Compensation</i>	<i>Revised Award (Rs.)</i>
6	Attender charges	3,500.00
Total :		19,24,000.00

6.1 In conclusion, the appeal is partially allowed and this Court enhances the compensation from Rs.14,74,000/- to Rs.19,24,000/-. This Court is informed that the second respondent-insurance company has already deposited the entire compensation awarded by the Tribunal. Therefore, the insurance company is now required to deposit the differential sum with interest at 7.5% per annum within a period of six weeks from the date of receipt of a copy of this order. The enhanced portion of the compensation is directed to be shared in the same ratio which the Tribunal has apportioned the compensation as between the claimants. The appellants are required to pay the additional court fee on the enhanced amount, if it is required to be so paid.

6.2 As directed by the Tribunal, the second respondent is now required to pay the compensation, and recover the same from the first respondent, as there are certain violation of policy conditions. This clause in the award of the Tribunal is confirmed, and the second respondent is now entitled to recover the sum it had paid the claimants from the first respondent. No costs.



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Index : Yes / No
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To:

1. The III Judge
Court of Small Causes
Motor Accident Claims Tribunal
Chennai.
- 2.The Section Officer
VR Section, High Court, Madras.



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N.SESHASAYEE.J.,

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