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C.M.A.No.1581 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2023

CORAM

**THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN**

**C.M.A.No.1581 of 2015**

1.Vishalatchi  
2.Minor Santhiya  
3.Minor Sathish  
4.Minor Saranya  
Minors 2 to 4 represented by  
their mother 1<sup>st</sup> appellant

..Appellants

Vs.

1.Forest Ranger,  
Perambalur,  
Thuraimangalam  
Perambalur Taluk and District.

2.The Director,  
Forest Ranger,  
No.259, 3<sup>rd</sup> Floor,  
D.M.S.Campas  
Chennai – 600 006.

...Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the order dated 26.07.2013 made in M.A.C.T.O.P.No.3015 of 2012 on the file of the Motor Accidents Claims Tribunal (III Court of Small Causes, Chennai).

For Appellants : Ms.A.Subadra

For Respondents : Mr.C.Jayaprakash  
Government Pleader



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## **JUDGMENT**

This appeal has been filed by the appellants/claimants seeking enhancement of compensation under the impugned award dated 26.07.2013 in M.A.C.T.O.P.No.3015 of 2012 passed by the Motor Accidents Claims Tribunal, (III Court of Small Causes, Chennai).

2.The case in brief, is as follows:

On 19.08.2010, at about 20.30 hours, while the deceased was standing near the Gudilam Bus Stop, Chennai to Trichy National Highway, a car bearing Reg.No.TN-46-G-0136 proceedings from Villupuram to Ulundurpet, came in a rash and negligent manner and hit the deceased Ramar. Due to the said impact, the deceased sustained grievous injuries and died on the spot. One Mr.Mohamed Rafi is the driver of the car. The wife, sons and daughter of the deceased filed a claim petition before the Tribunal, claiming a sum of Rs.10,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.9,48,500/- with interest at the rate of 7.5% per annum from the date of petition.



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3. Challenging the same, the appellants/claimants have filed the present Civil Miscellaneous Appeal for enhancement of compensation.

4. The learned counsel for the appellants/claimants has submitted that the Tribunal has not properly considered and decided the monthly income of the deceased as per the depositions of P.W.1 and P.W.2 and the documents marked, while awarding compensation. He further submitted that the Tribunal ought to add more than 30% as future prospects since at the time of accident, the deceased was aged about 38 years. He further submitted that the multiplier adopted by the Tribunal is not proper. It is also submitted that the Tribunal ought to award more under the heads of 'funeral expenses', 'damages to clothes and articles of the injured', 'mental agony'. He failed to award under the head of Transport Expenses. Stating so, the learned counsel prayed for enhancement of compensation.

5. The learned counsel for the respondents has submitted that the



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Tribunal has rightly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation and the same does not require any interference at the hands of this Court. Hence, he prays for dismissal of the appeal.

6. Heard the learned counsel for the appellants and the learned counsel for the respondents and perused the materials available on record carefully and meticulously.

7.This is a claimants' appeal seeking enhancement of the compensation awarded by the Tribunal. Hence, this Court is not inclined to go into the findings of the Tribunal in respect of negligence as well as the liability of the respondents to pay compensation.

8.The details of the compensation awarded by the Tribunal are as follows:

| HEADS                                                 | AMOUNT (in Rs.) |
|-------------------------------------------------------|-----------------|
| Loss of dependency<br>(6500x $\frac{1}{4}$ x 12 x 15) | 8,77,500/-      |
| Loss of Consortium                                    | 25,000/-        |
| Love and Affection                                    | 40,000/-        |
| Funeral Expenses                                      | 6,000/-         |



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**TOTAL**

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**9,48,500/-**  
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9.The Tribunal has awarded a sum of Rs.8,77,500/- towards loss of dependency by fixing the monthly income of the deceased at Rs.4875/-, deducting 1/4<sup>th</sup> of the amount towards personal expenses of the deceased and adopting the multiplier of 15. The Tribunal has relied upon Ex.R7-Post Mortem Certificate of the deceased and has taken the age of the deceased as 38 years. Further, taking note of the earning capacity of the deceased and the economic situation prevailing at that time, after adding 30% for future prospects of the deceased, the Tribunal fixed the monthly income of the deceased at Rs.4875/- for calculating the pecuniary loss on account of the death of the deceased.

10.It is claimed in the claim petition that the deceased was earning a sum of Rs.15,000/- per month as a mason and that he was the sole earning member of the family. It is submitted by the learned counsel for the appellants / claimants that the Tribunal has not properly considered the evidence of P.W.1 and P.W.2 and the documents marked, while fixing the



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monthly income of the deceased at Rs.6,500/-. It is also his specific submission that the Tribunal ought to have taken 40% while arriving at the compensation towards for future prospects, instead of 30%.

11.It is seen that the deceased was the entire caretaker of the family having four dependants. Taking note of the above submissions of the learned counsel for the appellants / claimants, economic situation prevailing at that time and also the facts and circumstances of the case, this Court is of the considered view that the monthly income of the deceased has to be taken as Rs.5000/- instead of Rs.4,875/- fixed by the Tribunal. There is no need to change the multiplier adopted by the Tribunal. Further, the 1/4<sup>th</sup> deduction made by the Tribunal also does not require any interference. If Rs.5,000/- is taken as the monthly income of the deceased, after adding 40% towards future prospectus of the deceased and 1/4<sup>th</sup> of the amount is deducted and the multiplier of 15 is adopted, the loss of dependency works out to Rs.9,45,000/- ( Rs.5000x40%=2000, 5000+2000=7000 x 1/4= 1750, 7000-1750= 5250, **(5250x 12x 15 = 945000)**). Accordingly, the amount awarded by the Tribunal towards loss of dependency stands modified to Rs.9,45,000/-Similarly, it would be appropriate to award a sum of



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Rs.40,000/- towards loss of consortium to the wife of the deceased, a sum of

Rs.1,20,000/- towards loss of love and affection to the sons and daughter of the deceased (Rs.40,000/- x 3), a sum of Rs.15,000/- towards funeral expenses and a sum of Rs.15,000/- towards Loss of Estate.

12.The details of the modified compensation are as under:

| HEADS                                                     | AMOUNT<br>(Rs.)    |
|-----------------------------------------------------------|--------------------|
| Loss of dependency<br>(5000+40% x $\frac{1}{4}$ x 12x 15) | 9,45,000/-         |
| Loss of love and affection                                | 1,20,000/-         |
| Loss of consortium                                        | 40,000/-           |
| Funeral expenses                                          | 15,000/-           |
| Loss of estate                                            | 15,000/-           |
| <b>TOTAL...</b>                                           | <b>11,35,000/-</b> |

13. Thus, the appellants / claimants are entitled to the modified compensation of Rs.11,35,000/-. It is made clear that for the enhanced amount of Rs.1,86,500/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal.

14.The Civil Miscellaneous Appeal is allowed. No costs.

15. The second respondent is directed to deposit the modified



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compensation as ordered above, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants / claimants shall withdraw the same, on making proper application before the Tribunal.

**A.A.NAKKIRAN.,J.**  
gv

16. Since the compensation amount now awarded is Rs.11,35,000/-, it is made clear that the claimants have to pay the appropriate Court fee in order to receive the awarded amount.

Index : Yes/No  
Internet : Yes/No

**19.01.2023**

gv

To

1.The Motor Accidents Claims Tribunal  
(III Court of Small Causes, Chennai).

2.The Section Officer,  
VR Section,  
Madras High Court.



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