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C.M.A.No.2487 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2487 of 2011

1.Kuppu
2.Amarakavi
3.Santhamoorthy
4.Suresh
5.Ramesh

... Petitioners/Appellants

Vs

1.R.Ranganathan

2.The Branch Manager,
National Insurance Company Limited,
No.88-F, Bye-pass Road,
Dharmapuri.

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the Award and Decree dated 23.03.2011 made in M.C.O.P.No.419 of 2010 on the file of the Motor Accidents Claims Tribunal/Additional District Judge, Krishnagiri.



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For Appellant

... Mr.P.Dinesh kumar
for M/s.M.Sriram

For Respondents

... Insufficient Address [R1]
... Ms.N.B.Sureka for [R2]

JUDGMENT

Aggrieved by the impugned award dated 23.03.2011 passed by the Motor Accidents Claims Tribunal, Additional District Judge, Krishnagiri in M.C.O.P.No.419 of 2010, the present appeal has been filed by the claimants/appellants seeking enhancement of compensation.

2. Brief facts which are necessary for disposal of this appeal are as follows:-

The Appellants herein are the wife, daughter and sons of deceased Mannugan respectively. On 03.09.2009, when the deceased was proceeding in his bicycle on the extreme left side of the road with observing all the rules of the road, in Kandhili to Tirupattur road, a Manguppam junction, the bus bearing Reg.No.T.N.24.1789 belonging to the 1st respondent, insured with the 2nd respondent, driven by its driver in a rash and negligent manner, dashed



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against the bicycle of the deceased resultantly, the deceased fell down from his cycle and crushed under the front wheel of offending bus and died on the spot.

Aggrieved by the loss incurred in view of the said accident, the appellants have filed a claim petition in M.C.O.P.No.419 of 2010 claiming compensation amount to the tune of Rs.10,00,000/-.

3. Before the Tribunal, the 1st petitioner, the wife of the deceased examined herself as P.W.1 and examined one Subramani as P.W.2 and marked Ex.P.1 to Ex.P.4. No witnesses were examined nor any documents were marked on the side of the respondents. After considering all the oral and documentary evidence, the Tribunal had awarded the compensation amount of Rs.3,00,000/- in the claim petition. Aggrieved by the quantum of compensation awarded by the Tribunal, the appellants/claimants are before this Court seeking enhancement of compensation.

4. Learned counsel appearing for the claimants submitted that at the time of accident, the deceased was earning a sum of Rs.6500/- per month.



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However, without considering the same, the Tribunal has fixed the monthly income at Rs.3000/-, which is on the lower side and the Tribunal has not added future prospects, which requires to be reconsidered by this Court. Further, the Tribunal has not added future prospects as per the decision rendered by the Hon'ble Supreme Court in the case of *National Insurance Company Limited Vs. Pranay sethi and others reported in 2017 (16) Supreme Court Cases 680.*, which also requires to be reconsidered by this Court. Accordingly, he prays for appropriate enhancement in favour of the appellants.

5. Per contra, the learned counsel appearing for the second respondent/Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

6. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials



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available on record.

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7. The factum and manner of the accident is not disputed by the parties.

Therefore, this Court is not entering into the said aspect. The only grievance of the appellants/claimants is with regard to the quantum of compensation awarded. It is claimed by the appellants that though the deceased had earned a sum of Rs.6500/- per month, however, without considering the same, the Tribunal has fixed the notional income at Rs.3000/- per month which requires enhancement. It has been the view of the courts that even a housewife is entitled to monthly income to be fixed for the purpose of qualifying their work for the purpose of quantifying the amount receivable by them. Applying the ratio laid down by the Hon'ble Supreme Court in the case of *Syed Sadiq Vs. United India Insurance Company* reported in **2014 (1) TANMAC 459**, fixing a notional income of Rs.6,500/- and adding future prospects at 10%, as has been held by the Constitution Bench in the case of *National Insurance Company Limited Vs. Pranay sethi and others* reported in **2017 (16) Supreme Court Cases 680**, the total income per month is quantified at Rs.7150/-. Deducting 1/4th towards the personal expenses of the deceased, the



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loss of income to the family is arrived at Rs.5,362/- per month and the deceased being aged about 55 years, as evidenced from the records, adopting the multiplier of 11 as fixed by the Apex Court in the case of *Sarla Verma and Ors. v. DTC & Ors.* reported in (2009) 6 SCC 121, the loss of income to the family is arrived at Rs.5,362 x 12 x 11 = 7,07,784/- which is worked out as follows :-

Loss of Income	Amount (in Rs.)
Notional income (Per month)	6,500
Add: Future Prospects (Rs.6,500 x 10%) (Per month	+ 650
	Rs.7,150/-
Less: Personal expenses (1/4 th) (Rs.7,150/- x 1/4) (Per month)	- 1,788
	Rs.5,362/-
Notional income (per annum) (Rs.5362 x 12)	64,344
Multiplier	x11
Total	Rs.7,07,784/-

8. A sum of Rs.15,000/- has been granted to the first appellant under the head of "loss of consortium", which is meagre and the same is enhanced to a sum of Rs.20,000/-. Further, a sum of Rs.8,000/- each has been awarded to the appellants 2 to 5 under the head of "loss of love and affection", which is



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also meagre and the same is enhanced to a sum of Rs.20,000/- each.

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9. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Loss of Dependency	Rs.2,43,000/-	Rs.7,07,784/- (enhanced)
Loss of Consortium	Rs.15,000/-	Rs.20,000/- (enhanced)
Loss of love and affection (Rs.8,000/-x 4)	Rs.32,000/-	Rs.80,000/- (enhanced)
Loss of Estate	Rs.5,000/-	Rs.15,000/- (enhanced)
Funeral Expenses	Rs.5,000/-	Rs.15,000/- (enhanced)
Total	Rs.3,00,000/-	Rs.8,37,784/-

10. The appeal is allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.3,00,000/-** to **Rs.8,37,784/-**. The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.419 of 2010 along with



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interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. The said award amount shall be apportioned amongst the appellants/claimants as per the Award of the Tribunal. On such deposit being made, the appellants/claimants are permitted to withdraw the award amount falling to their share, along with proportionate accrued interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn, by filing necessary application before the Tribunal. The appellants/claimants are directed to pay the necessary Court fee for the enhanced compensation amount, if any, required. The Tribunal below shall disburse the enhanced amount upon proof of payment of Court fee being produced by the appellants/claimants. There shall be no order as to costs in the present appeal.

02.11.2023

Index : Yes / No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No



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To

- 1.The Motor Accident Claims Tribunal,
Additional District Court,
Krishnagiri.
- 2.The Section Officer,
V.R. Section,
High Court, Madras.



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M.DHANDAPANI, J

NHS

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