



C.M.A.No.3716 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 23.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.3716 of 2013

1.Sadhasivam

2.Swetha S.Nair

... Appellants

Versus

1.C.R.Muralidharan

2.United India Insurance Company Ltd.,
Rep. by its Branch Manager,
Thindivanam.

3.Anila Sadhasivan

4.Oriental Insurance Company Ltd.,
Rep. by its Branch Manager,
No.5, Richmond Palazzo,
Richmond Road, Bangalore.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act against the judgment and decree dated 07.12.2010 made in MACT O.P.No.412 of 2005 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri.



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For Appellants : Mr.Mukund R.Pandian

For Respondents

For R1 : Exparte

For R2 : Mr.M.J.Vijayarahavan

For R3 : No such person

For R4 : Mr.N.Sampath

J U D G M E N T

This Civil Miscellaneous Appeal arises against the award passed by Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri, in M.C.O.P.No.412 of 2005 on 07.12.2010.

2. The claim petitioners are the appellants herein filed this appeal seeking enhancement of compensation.

3. It is the case of the appellants/claimants that on 25.10.2004 at about 04.30 hours, when the deceased along with his relatives were returning from Guruvayur to Bangalore in a Maruthi Car bearing



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Reg.No.KA-02-N-4823 belongs to the 3rd respondent and insured with the 4th respondent near Koneripalli bus stop in the Krishnagiri – Hosur N.H.Road, a lorry bearing TN-32-V-2527 belongs to the 1st respondent and insured with 2nd respondent was going in front of the said Maruthi car was abruptly stopped by its driver and hence, the said Maruthi car dashed against the back side of the lorry. Hence, the accident occurred, due to which, the deceased died on the spot. Hence, the claim petitioners filed a petition before the Tribunal for claiming compensation of Rs.11,00,000/-.

4. Before the Tribunal, on behalf of the claimants, P.W.1 to P.W.5 were examined and Ex.A1 to Ex.A16 were marked and on the side of the Respondents R.W.1 and R.W.2 were examined and Ex.B1 to Ex.B3 were marked.

5. On appreciation of the materials before it, the Tribunal awarded compensation as follows:

(a)Pecuniary loss	:	Rs. 3,10,000/-
(b)Loss of estate	:	Rs. 10,000/-
(c) Funeral expenses and Transportation	:	Rs. 5,000/-



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Rs. 3,25,000/-

The said sum was directed to be paid by the respondents 1 and 2 jointly and severally liable to pay a sum of Rs.1,62,500/- at the ratio of 50% and the respondents 3 and 4 are jointly and severally liable to pay a sum of Rs.1,62,500/- at the ration of 50% along with interest at 6% per annum from the date of petition till the date of realization.

6. Learned counsel for the appellants/claimants submitted that though the Tribunal fixed entire liability on the respondents, awarded a very meagre amount as compensation. The Tribunal erred in not considering the fact that the deceased was a student at the time of accident and the Tribunal erred in awarding consolidated amount. The Tribunal failed to consider the exhibits marked by the appellants which clearly shows that the deceased has got admission in Engineering college. The Tribunal ought to have fixed the monthly income as Rs.10,000/- per month and ought to have applied multiplier method for calculating future loss of income. The Tribunal ought to have awarded huge amount for loss of love and affection where the appellants had lost their lovable son. The Tribunal ought to have awarded



reasonable compensation under all the heads whereas awarded very meagre amount. Hence, the compensation awarded by the Tribunal has to be enhanced.

7. The learned counsel for the respondents, on the other hand, submitted that the order of the Tribunal is fair and justified and it does not require any interference by this Court.

8. Heard the learned counsel appearing for the parties and perused the records.

9. Considering the facts and circumstances and taking note of the fact that the deceased was aged 19 years at the time of accident and he was also got admission in Engineering college, this Court is inclined to fix the income of the deceased at Rs.4,500/- (Rs.4,500/- + 40% future prospects = Rs.6,300/-). Accordingly, Rs.6,80,400/- (Rs.6,300/- 50% deduction = Rs.3150 x 12 x 18 = Rs.6,80,400/-) is awarded. The Tribunal has awarded Rs.40,000/- towards loss of love and affection, which appears to be lower



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and hence, this Court is inclined to enhance the said amount to Rs.60,000/- (Rs.30,000/- + Rs.30,000/- each). The Tribunal awarded Rs.10,000/- towards loss of estate, which is just and reasonable and the same is hereby confirmed. The Tribunal awarded Rs.5,000/- towards funeral expenses and transportation, which appears to be very meagre and hence, this Court is inclined to enhance the said amount to Rs.10,000/-.

10. The Appeal was filed with the delay of 804 days and while allowing the condone delay petition in M.P.No.1 of 2013, this Court had held that the claim Petitioners will not be entitled to interest for the default period.

11. In the light of the said discussions, the modified award is as follows:

<i>S.No.</i>	<i>Particulars</i>	<i>Award of Tribunal</i>	<i>Enhanced amount</i>	
1.	Loss of income	3,10,000	Rs. 6,80,400/- (4500 + 40% future prospectus = 6300 – 50% deduction = 3150 x 12 x 18)	Enhanced



<i>S.No.</i>	<i>Particulars</i>	<i>Award of Tribunal</i>	<i>Enhanced amount</i>	
2.	Loss of love and affection		Rs. 60,000/- (30,000 + 30,000 each)	Granted
3.	Loss of estate	Rs. 10,000/-	Rs. 10,000/-	Confirmed
4.	Funeral expenses	Rs. 5,000/-	Rs. 10,000/-	Enhanced
		Rs. 3,25,000/-	Rs. 7,60,400/-	

Accordingly, the amount awarded by the Tribunal is enhanced from Rs.3,25,000/- to Rs.7,60,400/- together with interest at 7.5% per annum from the date of petition till the date of deposit as compensation.

12. In fine,

(i) The 2nd and 4th respondents / Insurance Companies are directed to deposit the entire amount i.e., Rs.7,60,400/- (excluding the interest for the default period) jointly and severally at the ratio of 50 : 50, as fixed by the Tribunal, less the amount already paid, if any together with interest at 7.5% per annum from the date of petition till date of deposit and costs to the credit of M.C.O.P.No.412 of 2005 on the file of the Motor Vehicle Accident Claims Tribunal, Principal District Judge, Krishnagiri, within a period of six(6) weeks from the date of receipt of a copy of this order.



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WEB COPY (ii) On such deposit, the appellants/claimants are entitled to withdraw their respective share, as apportioned by the tribunal, on due application.

(iii) Accordingly, this Civil Miscellaneous Appeal is partly allowed.

No costs.

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Index:yes/no
Internet:yes/no
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To

The Principal District Judge,
Motor Accident Claims Tribunal,
Krishnagiri.



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A.A.NAKKIRAN.J.,

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