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C.M.A.No.1104 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2023

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THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

**C.M.A.No.1104 of 2018
and
CMP.Nos.6988 & 7901 of 2018**

- 1.L.M.Mani
- 2.M.Malar
3. Nadhiya
4. M. Sangeetha
5. M.Sathiya

..Appellants

Vs.

- 1.G.Arumugam
- 2.The Principal,
M/s.Kanchi Pallavan Engg. College,
Kolivakkam Village,
Iyyangarkulam Post PIN 631 502
Kanchipuram District.
- 3.The Chairman,
M/s.Kanchi Pallavan Engg. College,
Kolivakkam Village, Iyyagarkulam Post PIN 631 502
Kanchipuram District.

- 4.M/s.Royal Sundaram Alliance Co., Ltd.,
No.5, R.K.Plaza, Katpadi Main Road,
Viruthampattu, Vellore PIN 632 006.
Having their Registered Office at No.21,
Patullos Road, Chennai 600 002.

(The respondents 1 to 3 herein were respondent 1 to 3 before the Tribunal and they remained exparte before the Tribunal. Hence , notice to the respondents 1 to 3 herein may be dispensed with)

...Respondents



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PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the order dated 20.11.2017 made in M.C.O.P.No.97 of 2012 on the file of the Motor Accidents Claims Tribunal / Subordinate Judge, Ranipet, Vellore District.

For Appellants : Mr.C.Vijayakumar

For Respondents : Mr.C.Harini for R4

For M/s.M.B.Gopalan Associates

JUDGMENT

This appeal has been filed by the appellants/claimants seeking enhancement of compensation under the impugned award dated 20.11.2017 in M.C.O.P.No.97 of 2012 passed by the Motor Accidents Claims Tribunal, (Subordinate Judge, Ranipet, Vellore District).

2.The case in brief, is as follows:

On 06.02.2012 at about 7.20 a.m., while the deceased Selvakumar was travelling in a bus bearing Regn.No.TN-21-AH-4059 owned by the Educational Institute named Kanchi Pallvan Engineering College, Kolivakkam, in Arcot - Kalavai Bye pass road, driven by its driver, being repairing work, he could not make halt of the vehicle immediately which



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resulted in sudden upset and caused rolling down of the vehicle on the left side of the road. Due to upset of the bus, many number of students who were inside the bus got injured. Due to the said impact, the deceased sustained fatal injuries and immediately taken to CMC Hospital, Vellore and died on 08.02.2012. The parents and sisters of the deceased filed a claim petition before the Tribunal, claiming a sum of Rs.1,57,40,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.5,08,000/- with interest at the rate of 7.5% per annum from the date of petition.

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 evidences and documents while awarding compensation. He further submitted that the Tribunal erred in fixing the anticipated monthly income of the deceased at Rs.4000/- (Rs.48000/- per annum). The Tribunal has not considered the future prospectus of the deceased. It failed to note that the future prospects for a



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deceased will be applicable even the deceased is a non-earning member. It has erred in deducting 50% of the income towards personal expenses of the deceased though there are five claimants out of which third claimant is the unmarried sister. The Tribunal has not considered the compensation for pain and suffering of the deceased since the accident occurred on 06.02.2012 and the deceased died on 08.02.2012. It has awarded only a meagre sum of Rs.1000/- towards loss of estate, Rs.15000/- towards funeral expenses and Rs.60000/- towards love and affection. It has not awarded any compensation for the loss of expectation of life. The rate of interest fixed at 7.5% is also not correct. The claimants are not able to pay the court fee for the huge and exaggerate claim amount. Hence the claim amount is restricted to Rs.19,92,000/- and they are not able to pay the court fee for the entire amount and paid only Rs.1000/- towards court fee and undertake to pay the additional court fee as per the order of this Court. Hence court fee exemption petition filed under Section 24(3) of Motor Vehicles Act. Stating so, the learned counsel prayed for enhancement of compensation.

5.The learned counsel for the fourth respondent has submitted that the Tribunal has rightly considered the materials and evidence available on



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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 fourth respondent 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	4,32,000/-
Love and Affection	50,000/-
Loss of Estates	11,000/-



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Funeral Expenses 15,000/-

TOTAL 5,08,000 /-

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9.The Tribunal has awarded a sum of Rs.4,32,000/- towards loss of dependency by fixing the annual income of the deceased at Rs.48000/-, deducting 1/2 of the amount towards personal expenses of the deceased and adopting the multiplier of 18. The Tribunal has relied upon Ex.P7/dated 08.02.2012- Copy of the Post Mortem Certificate of the deceased and has taken the age of the deceased as 22 years at the time of accident. Further, taking note of the earning capacity of the deceased and the economic situation prevailing at that time, the Tribunal fixed the monthly income of the deceased at Rs.4000/- 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 a IVth year Engineering College Student studying Mechanical Engineer in Kanchi Pallavan Engineering College, Kolivakkam, Kanchipuram District. The deceased will be having all the potential to earn more after completing the



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course. It is submitted by the learned counsel for the appellants / claimants that the Tribunal has not properly considered the evidences of P.W.1 and P.W.2 and the documents marked, while fixing the monthly income of the deceased at Rs.4000/-. It is also his specific submission that the Tribunal ought to have added 40% while arriving at the compensation towards future prospects.

11. 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 it would be appropriate to take Rs.12000/- as the monthly income of the deceased. There is no need to change the multiplier adopted by the Tribunal. Further, the 1/2 deduction towards personal expenses made by the Tribunal also does not require any interference. If Rs.12,000/- is taken as the monthly income of the deceased, after adding 40% towards future prospectus of the deceased and 1/2 of the amount is deducted and the multiplier of 18 is adopted, the loss of dependency works out to Rs.18,14,400/- (Rs.12000x40%=4800, 12000+4800=16800 x 1/2= 8400, 16800 – 8400 = 8400, **(8400x 12x 18 =18,14,400/-)** Accordingly, the



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amount awarded by the Tribunal towards loss of dependency stands modified to Rs.18,14,400/-. The amount awarded under the heads of love and affection, loss of estates and funeral expenses seems to be reasonable and hence they do not require any interference of this court and they are confirmed as such.

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

HEADS	AMOUNT (Rs.)
Loss of dependency (12000+40% - $\frac{1}{2}$ x 12x 18)	18,14,400/-
Loss of love and affection	50000/-
Loss of Estate	11,000/-
Funeral expenses	15,000/-

TOTAL...	18,90,400/-

13. Thus, the appellants / claimants are entitled to the modified compensation of Rs.18,90,400/-. It is made clear that for the enhanced



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amount of Rs.13,82,400/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal.

14.The Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

15.The respondents 1 to 4 shall deposit the enhanced compensation amount, as awarded by this Court, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest as per the order of this Court to the appellants/claimants through RTGS within a period of two weeks thereafter. No costs.

16. Since the compensation amount now awarded is Rs.18,90,400/-, it is made clear that the claimants have to pay the appropriate Court fee in order to receive the enhanced amount.

Index : Yes/No
Internet : Yes/No

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To

1.The Motor Accidents Claims Tribunal
Subordinate Judge, Ranipet,Vellore District.

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

A.A.NAKKIRAN.,J.

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