



C.M.A.No.965 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE N.MALA

C.M.A.No.965 of 2023

1.Saroja

2.Prabu

3.Priya

...Appellants

Vs.

1.A.Prasanth

2.United India Insurance Co., Ltd., T.P.Cell,
No.134, Greams Road,
Chennai – 06.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 22.09.2022 made in MCOP.No.4586 of 2019 on the file of Motor Accident Claims Tribunal, (Chief Judge Court of Small Causes), Chennai.

For Appellants : Mr.U.Chithambaram

For Respondents : Mr.P.Sankaranarayanan for R2



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J U D G M E N T

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The appeal is filed against the decree and judgment dated 22.09.2022 made in MCOP.No.4586 of 2019 on the file of the Motor Accident Claims Tribunal, (Chief Judge Court of Small Causes), Chennai.

2. The claimants are the appellants. The appeal is filed claiming enhancement of compensation. The claim petition was filed by the claimants claiming a compensation of Rs.25,00,000/- for the death of the husband of the 1st claimant and the father of the claimants 2 and 3 in a motor accident which occurred on 22.05.2019.

3. According to the claimants, the accident occurred due to the rash and negligent driving of the rider of the 1st respondent. According to the claimants, the deceased was aged 54 years at the time of the accident and he was earning a sum of Rs.30,000/- per month as a Carpenter. Therefore, the claimants claimed a sum of Rs.25,00,000/- as compensation.



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4. The 1st respondent in the claim petition remained *ex parte* and the 2nd respondent/ Insurance Company contested the petition by filing a counter. The 2nd respondent denied all the averments in the claim petition, specifically denied the averments regarding negligence, liability and quantum.

5. In the Claims Tribunal the claimants examined three witnesses and marked Exs.P1 to P13 in support of their claim. The respondent neither examined any witness nor marked any document.

6. The Claims Tribunal assessed the entire evidence on record and rendered a finding of negligence against the rider of the 1st respondent. The Claims Tribunal awarded a sum of Rs.11,18,000/- along with 7.5% interest as compensation and mulcted the liability on the 2nd respondent as the Insurer of the 1st respondent. Not satisfied with the award passed by the Claims Tribunal, the claimants have filed the above appeal.



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7. The only point that is agitated in the appeal is the income fixed by the Claims Tribunal for assessing the compensation. The learned counsel for the appellants submitted that as the accident took place in the year 2019 and the deceased was working as carpenter, the assessment of income at Rs.10,000/- by the Tribunal is very much on the lower side and the same deserve to be increased.

8. The learned counsel for the 2nd respondent on the other hand submitted that considering the age of the deceased, the Tribunal has rightly fixed the income at Rs.10,000/-.

9. I have heard both the counsel and I am of the view that the income fixed by the Tribunal is on the lower side. Considering the fact that the accident took place in the year 2019 and also that the deceased was aged 54 years and was a carpenter by profession, in my view the income can be fixed at Rs.12,000/- per month. It is further submitted by the learned counsel for the appellant that the amounts awarded under other heads are fair and reasonable.



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10. In the light of the above, I am of the view that the award of the

Tribunal needs to be modified and it is modified as follows:-

Monthly Salary : Rs.12,000/-

ADD: 10% Future Prospects : Rs.1,200/-

Rs.13,200/-

Towards Loss of Income/ Dependency

Rs.13,200 x 12 x 11 x 2/3 = Rs.11,61,600/-

Towards Loss of Estate = Rs.15,000/-

Towards Loss of Consortium

Rs.40,000/- (Each) x 3 = Rs.1,20,000/-

Towards Funeral Expenses = Rs.15,000/-

Compensation Payable

= **Rs.13,11,600/-**

11. The award of the Tribunal is therefore modified and the compensation is enhanced from Rs.11,80,000/- to Rs.13,11,600/- with 7.5% interest. It is submitted by the learned counsel for the 2nd respondent that the entire award amount was deposited and the claimants have also withdrawn the entire amount along with interest and costs.



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12. In view of the above, a direction is issued to the 2nd respondent to deposit the balance amount of Rs.1,93,600/- along with accrued interest within a period of six (6) weeks from the date of receipt of a copy of the order. It is made clear that the enhanced amount shall be paid to the 1st claimant. Upon the deposit made by the Insurance Company, the 1st claimant shall be entitled to withdraw the entire amount by making proper application before the Claims Tribunal.

13. Accordingly, the Civil Miscellaneous Appeal is **partly allowed**.

No costs.

25.04.2023

dsa

Index :Yes/No
Internet :Yes/No
Neutral Citation :Yes/No
Speaking order /Non-speaking order
To:-

The Chief Judge,
Motor Accident Claims Tribunal,

6/8



Court of Small Causes,
Chennai.

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N.MALA, J.

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