



C.M.A.No.3624 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE A.A. NAKKIRAN

Civil Miscellaneous Appeal No.3624 of 2019

1.Vasantha Samuel
2.S.Evanjalin

.. Appellants

Versus

1.Muniappan
2.T.Ramesh Kumar

3.The United India Insurance Co.Ltd.,
Divisional Office,
Dr.Nanjappa Road,
Coimbatore.

.. Respondents

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 11.04.2017 made in M.C.O.P.No.917 of 2012 on the file of the Motor Accident Claims Tribunal, Special Sub-Court, Coimbatore.

For Appellants : Mr.S.Sri Ram
for Mr.K.Govi Ganesan

For R1 : No Appearance
For R2 : Door Locked
For R3 : Mrs. I. Malar

JUDGMENT

This appeal has been preferred by the claimants/appellants against the

award dated 11.04.2017 passed by the Motor Accidents Claims Tribunal,

<https://www.mhc.tn.gov.in/judis>



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Special Sub-Court, Coimbatore in M.C.O.P. No. 917 of 2012, seeking enhancement of compensation.

2. The appellants herein are the claimants, who are the mother and sister of the deceased, namely Paul Ebinezar, who died in a road accident. For the death of the deceased, they have filed the claim petition, claiming compensation of Rs.20,00,000/-.

3. Resisting the claim of the appellants, the third respondent/Insurance Company filed a counter affidavit inter alia disputing the manner of the accident, age, occupation and income of the deceased.

4. In order to prove their respective case, on behalf of the appellants, P.Ws. 1 to 3 were examined and Exs.P1 to P12 was marked. On behalf of the respondents in the claim petition, one Mr. Mohanraj was examined as R.W.1, one Mr. Tamil Selvan was examined as R.W2 and Exs.R1 to R3 were marked.

5. On consideration of oral and documentary evidence, the Tribunal has concluded that the accident was caused by the driver of the lorry belonging to the 2nd respondent and insured with the third respondent/Insurance



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Company. As regards the income of the deceased, it was concluded that the deceased was working as a CNC machine operator in Falcon Toolings, Kalappatty and earning a sum of Rs.10,000/- per month. In order to prove the same, the Sales Engineer of Falcon Toolings, Kalappatty was examined as P.W.2 through whom the Certificate for payment of salary of the deceased in the letter head form was marked as Ex.P-12. On perusal of Ex.P12, the Tribunal concluded that the deceased was paid Rs.10,000/- per month as salary. Based on the same, the Tribunal fixed the income of the deceased at Rs.10,000/- per month. Taking note of the age of the deceased, the Tribunal adopted multiplier method and awarded a total sum of Rs.12,10,000/- as compensation payable by the third respondent/Insurance Company with liberty to recover it from the second respondent/owner of the lorry.

6. Being not satisfied with the quantum of compensation awarded by the Tribunal, the appellants have preferred the present appeal.

7. The learned counsel for the appellants submitted that the tribunal has erroneously awarded a sum of Rs.10,80,000/- only under the head of loss of dependency whereas the claim was made for Rs.18,00,000/-. He also pointed out that no compensation was awarded towards future prospects by the



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Tribunal. He further submitted that the Tribunal erroneously dismissed the claim of the second appellant herein without considering that at the time of accident, she was studying 12th standard, was unmarried at that time and also she lost her father and she was totally depended on the income of her deceased brother viz Paul Ebinezer. Therefore, she is also a dependent and entitled for compensation. Accordingly, the learned counsel for the appellants would pray for enhancement of the compensation.

8. The learned counsel for the third respondent/Insurance Company would contend that the Tribunal has rightly passed the award on consideration of the evidence available on record and no interference is required and hence she seeks for dismissal of the appeal.

9. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the third respondent-Insurance Company and perused the materials available on record.

10. It is not in dispute that the deceased, who is the son of the first appellant and brother of the second appellant died in a road accident. At the time of accident, he was 22 year old. This Court perused Ex.P12-salary



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certificate wherein it has been mentioned that the deceased was drawing a sum of Rs.12,000/- per month as salary through his employment as CNC Machine Operator in Falcon Toolings, Kalappatty. On perusal of Ex.P12, this Court is of the view that the income of the deceased as fixed by the Tribunal is proper. Even as regards the multiplier method adopted by the Tribunal, the learned counsel for the appellants has rightly pointed out that as per the Sarla Verma's case, the multiplier '18' has to be adopted since the deceased was 22 years at the time of accident. Admittedly, the deceased was a bachelor, as such 40% of future prospects has to be added, but this was not taken note of by the Tribunal. Thus, the amount awarded by the Tribunal towards loss of income is modified to Rs.15,12,000/- [(Rs.10,000/- + 4,000) (40% of Rs.10,000/-) x 12 x 18 x 50/100)].

11. The Tribunal has not awarded any amount towards transportation. Hence, Rs.10,000/- is granted towards transportation.

12. The Tribunal has awarded a sum of Rs.5,000/- towards loss of estate and the same is meagre. Therefore, it is scaled up to Rs.15,000/- which would be the proper compensation towards loss of estate.



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13. The Tribunal has awarded a sum of Rs.1,00,000/- and Rs.25,000/- towards loss of love & affection and funeral expenses and the same is hereby reduced to Rs.80,000/- and Rs.15,000/- respectively. Thus, the compensation awarded by the Tribunal is modified as follows:

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	10,80,000/-	15,12,000/-	Enhanced
2.	Loss of love and affection	1,00,000/-	80,000/-	Reduced
3.	Transportation	-	10,000/-	Granted
4.	Funeral expenses	25,000/-	15,000/-	Reduced
5.	Loss of estate	5,000/-	15,000/-	Enhanced
	Total	Rs.12,10,000/-	Rs.16,32,000/-	Enhanced by Rs.4,22,000/-

14. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.12,10,000/- is hereby enhanced to Rs.16,32,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants are directed to pay the Court fee, if any on the enhanced amount of compensation. The third respondent/Insurance Company is directed to deposit the enhanced award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of eight weeks from the



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date of receipt of a copy of this judgment and thereafter, recover the same from the second respondent, who is the owner of the vehicle, in accordance with law.

On such deposit, the appellants are permitted to withdraw their respective share of the enhanced award amount in equal proportion, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. No costs.

13.04.2023

Index : Yes / No

Internet : Yes/ No

Speaking/Non-speaking order

gbi

To

1.The Judge,
Motor Accident Claims Tribunal,
Special Sub-Court,
Coimbatore.

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



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A.A.NAKKIRAN, J.,

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