



C.M.A No.1554 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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DATED: 24.11.2023

CORAM

**MR.JUSTICE N.SESHASAYEE**

C.M.A.No.1554 of 2022

1.Malliga  
2.Dhanalakshmi  
3.Tamilarasi  
4.Dhanasekaran  
5.Thilakavathi

... Appellants

Vs.

1.M/s.Mugilan Enterprises,  
having its office at No.41,  
Perambur High Court,  
Chennai-12.

2.The Oriented Insurance Co.Ltd.,  
having its office at No.176,  
J.N Road, Thiruvallur.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, seeking to set aside the fair and decretal order dated 14.08.2019 made in MCOP.No.114 of 2013, on the file of Motor Accidents Claims Tribunal, Ponneri, in the Court of IV Additional District Judge, Ponneri and enhance the compensation award amount.



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For Appellants : Mr.C.Palanisamy

For Respondents : Mr.J.Vijayaraghavan for R2

R1 - No representation

### **JUDGMENT**

This appeal is preferred by the claimants in MCOP.No.114 of 2013 on the file of the Motor Accidents Claims Tribunal, IV Additional District Judge, Ponneri, challenging the inadequacy of compensation awarded in a fatal accident that took place on 03.04.2002 when a lorry killed a cyclist.

2.The victim of the accident was a certain Sakthivel. At the relevant time when he died, he was 47 years old and was also working in the port trust as evinced by Ex.P.8, which shows that his monthly income is Rs.3,000/-. Reckoning the same, the Tribunal applied 13 as multiplier, deducted 1/4 towards personal expenditure, and it arrived at the net value of loss of dependency at Rs.3,51,000/-. After providing for other conventional heads of compensation, the Tribunal arrived at the total compensation amount at Rs.4,21,000/-, which is now under challenge. The breakup is as below:



| Sl. No. | Particulars                                                  | Amount awarded by Tribunal (Rs.) |
|---------|--------------------------------------------------------------|----------------------------------|
| 1.      | Loss of dependency<br>Rs.2,250/- x 12 x 13<br>=Rs.3,51,000/- | 3,51,000/-                       |
| 2.      | Loss of Estate                                               | 15,000/-                         |
| 3.      | Funeral expenses                                             | 15,000/-                         |
| 4.      | Loss of love and affection                                   | 40,000/-                         |
|         | <b>Total</b>                                                 | <b>4,21,000/-</b>                |

3.Mr.C.Palanisamy, learned counsel for the appellants submitted that the Tribunal failed to provide anything towards future prospects, that the victim had been hospitalized for close to 23 days and continued with his suffering for another 30 days and died on 26.05.2002, but the Tribunal did not award anything towards pain and suffering and also towards attendant charges and transport expenses. This apart, the Tribunal has also not awarded anything towards loss of love and affection for all the claimants.



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4.Mr.J.Vijayaraghavan, learned counsel for the second respondent submitted that the accident had taken place in 2002, and reckoning the cost of living in 2002, the nature of compensation awarded by the Tribunal is fair and reasonable. He also added that no postmortem certificate was marked.

5.Turning to the head on loss of dependency, very apparently the Tribunal had failed to add anything towards future prospects of increase in earning higher income by the victim. So far as compensation payable on the head 'loss of love and affection' is concerned, the Tribunal has awarded only Rs.8,000/- per head. Admittedly, the victim had died after 53 days since he suffered injuries. He is stated to have suffered major injuries to his spinal cord and was in hospital for 23 days, thereafter, the hospital had given up on the claimants and the victim suffered for another 30 days. In this case, necessarily, the victim must be granted for pain and suffering which would accrue to his estate.

6.In view of the above, this Court, reckoning Rs.3,000/- per month as a notional income of the victim, adding 40% towards future prospects, applying multiplier of 13 and reducing it by 1/4, arrives at the net value of



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loss of dependency at Rs.4,91,400/-. So far as other conventional heads are concerned, this Court awards Rs.40,000/- for each of the claimants towards loss of love and affection. Accordingly, the award amount is enhanced from Rs.40,000/- to Rs.2,00,000/-. Towards pain and suffering, this Court awards Rs.1,00,000/- to the claimants, and Rs.10,000/- towards attendant charges. The breakup is as below:

| Sl. No | Description                | Amount awarded by Tribunal (Rs.) | Amount awarded by this Court (Rs.)                                | Award confirmed or enhanced or granted |
|--------|----------------------------|----------------------------------|-------------------------------------------------------------------|----------------------------------------|
| 1.     | Loss of dependency         | 3,51,000/-                       | 4,91,400                                                          | enhanced                               |
| 2.     | Loss of love and affection | 40,000/-                         | 2,00,000/-<br>(Rs.40,000/- each)<br>40,000 x 5 =<br>Rs.2,00,000/- | enhanced                               |
| 3.     | Pain and suffering         | --                               | 1,00,000/-                                                        | granted                                |
| 4.     | Attendant charges          | --                               | 10,000/-                                                          | granted                                |
| 5.     | Transport expenses         | --                               | 10,000/-                                                          | granted                                |
| 4.     | Loss of estate             | 15,000/-                         | 15,000/-                                                          | confirmed                              |
| 5.     | Funeral expenses           | 15,000/-                         | 15,000/-                                                          | confirmed                              |
|        | Total                      | Rs.4,21,000/-                    | <b>Rs.8,41,400/-</b>                                              | Enhanced by<br><b>Rs.4,20,400/-</b>    |



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7. In conclusion, this appeal stands allowed and the compensation payable

is enhanced from **Rs.4,21,000/-** to **Rs.8,41,400/-**. This Court is informed that the respondent had already deposited the sum awarded by the Tribunal, and it is now required to deposit the differential sum i.e., **Rs.4,20,400/-** with interest at 7.5% per annum from the date of filing of the claim petition before the Tribunal till the date of deposit, less interest for 863 days, within a period of twelve (12) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants are permitted to withdraw the award amount falling to their share, along with proportionate interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn. The claimants are directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee is produced by the claimants. No Costs.

24.11.2023

*Anu*

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To

The Motor Accidents Claims Tribunal,  
IV Additional District Judge, Ponneri

N.SESHASAYEE, J.



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