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C.M.A.No.191 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.191 of 2023

1.Madhammal
2.Minor Deepa Dharshini
3.Minor Arunthathi
4.Minor Dilip Saran
5.Thulasi
(Minors 2 to 4 are rep.by their
Next friend mother Madhammal)

... Appellants

vs.

1.S.George Arockiyaraj
2.The Branch Manager,
IFFCO TOKIO General Insurance Company Limited,
Salem – 636 004.

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.838 of 2018 dated 13.12.2019 on the file of the Motor Accident Claims Tribunal/Additional District Judge, Krishnagiri.

For Appellants :Mr.S.P.Yuvaraj

For R1 : No appearance

For R2 : Mr.J.Michael Visuvasam



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JUDGMENT

The claim petitioners are the appellants herein seeking enhancement of compensation.

2. For the sake of convenience, the parties are referred to as per the ranking before the Tribunal.

3. The factum of the accident, the manner of the accident and rash and negligence driving on the part of the driver of the offending vehicle, are not disputed and hence the findings rendered by the Tribunal are hereby confirmed.

4. The first claim petitioner is the wife of the deceased Devendiran and the petitioners 2 to 4 are the minor daughters and minor son and 5th petitioner is the aged mother of the deceased Devendiran. They have preferred the present appeal for the pecuniary loss sustained by him due to the deceased of her husband in the road transport accident that happened on 13.11.2017.

5. In the trial, Exhibits P1 to P16 were marked. P.W.1 to P.W.3 were examined. On behalf of the respondents side, R.W.1 was examined and Ex.R1 and Ex.R2 were marked.

6. On consideration of both oral and documentary evidence, the Tribunal has awarded a sum of Rs.19,60,000/- as total compensation.



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7. At the time of the accident, the deceased was working as Conductor and hence the notional income has to be now fixed considering the facts. On the date of the accident, the deceased was aged about 37 years and hence, as contended by the learned counsel for the appellant, the proposition laid down by the Supreme Court in Pranay Sethi case, reported in National Insurance Company Limited Vs. Pranay Sethi and others (S.L.P.(Civil) No.25590 of 2014, dated 31.10.2017) (Reported in 2017 (16) SCC 680) has to be applied.

8. The date of the accident is 13.11.2017, the Tribunal has fixed the notional income as Rs.10,000/- for the accident in the year 2017. Since the accident occurred on 13.11.2017, a sum of Rs.12,000/- is hereby fixed as monthly income of the deceased. Future prospects is fixed at 40%. Following the ratio laid down by the Constitution Bench's judgment of the Honourable Apex Court in the case of Pranay Sethi (supra), accordingly, the calculation is made as below:

$$12,000 \times (12,000 \times 40\%) \times 15 \times 3/4 \times 12 = 22,68,000/-$$

9. For the 'loss of love and affection' for petitioners 2 to 5, a sum of Rs.40,000/- each is hereby awarded. This Court awards Rs.15,000/- towards 'transportation'. The other heads are fixed by the Tribunal is hereby confirmed.



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S. No.	Head	Amount awarded by the Tribunal	Amount awarded by this Court
1.	Loss of dependency	Rs.18,90,000/-	Rs.22,68,000/-
2.	Loss of love and affection	Rs. 40,000/-	Rs. 1,60,000/- (40,000/-*4)
3.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
4.	Funeral expenses	Rs. 15,000/-	Rs. 15,000/-
5.	Transportation		Rs. 15,000/-
	Total	Rs.19,60,000/-	Rs.24,73,000/-

10. In total, the claim Petitioners are entitled to a sum of Rs.24,73,000/- (Rupees Twenty four lakhs and seventy three thousand only) with interest at the rate of 7.5% per annum from the date of Petition till date of realisation.

11. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.19,60,000/- to Rs.24,73,000/- to the extent indicated above. No Costs.

(ii) the 2nd Respondent/Insurance Company is directed to deposit the award amount of Rs.24,73,000/-, with interest and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.



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(iii) on such deposit being made, all the claimants/appellants are permitted to withdraw their entire share in the enhanced award amount with proportionate accrued interest and costs, as per the ratio of apportionment made by the Tribunal, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) The appellants/claim Petitioners are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation : Yes / No
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To

1. The Motor Accident Claims Tribunal,
Additional District Judge, Krishnagiri.

2. The Section Officer,
V.R.Section,
High Court of Madras, Chennai.

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RMT.TEEKAA RAMAN, J.,

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Judgment in
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