



C.M.A.No.1651 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.1651 of 2018

1.Selvam
2.Radha
3.Rukkumani
4.Ramesh
5.Suresh Kumar

.. Appellants

Versus

1.P.C.Bharathi

2.Reliance General Insurance Company Ltd
No.4/3/1 and 3/2M
11th Main 3rd Block
Jayanagar
Bangalore – 560 061

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173(1) of Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accidents Claims Tribunal (Subordinate Judge Court) at Mettur made in M.C.O.P.No.31 of 2011 dated 26.08.2015.

For Appellants	: Mr.C.Harish
For Respondents	: Mr.S.Arunkumar for R2

JUDGMENT

The Civil Miscellaneous Appeal has been filed against the Judgment and Decree of the Motor Accidents Claims Tribunal (Subordinate Judge Court) at



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Mettur made in M.C.O.P.No.31 of 2011 dated 26.08.2015.

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2.The manner of the accident, factum of the accident, rash and negligence on the part of the driver of the offending vehicle are not in dispute.

3. On 24.12.2009, the deceased Arthanari was riding with Ramesh in TVS XL Super Motor Cycle on left side of Theerthagiripatti to Mecheri, the first respondent vehicle dashed the motor cycle and the Arthanari died at Hospital. Hence, the claim petition.

4. The appellants/children are the claimants seeking to challenge the award passed by the Tribunal on the ground of quantum. The first respondent is the owner of the offending vehicle and the second respondent is Insurance Company. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

5. During the trial before the Tribunal, the fourth appellant was examined as PW1. Ex.P1 to P7 were marked. Ex.P1 is the FIR Copy, Ex.P3 is the Death Certificate, Ex.4 is the legal heirship certificate. The Tribunal on consideration



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of both oral and documentary evidences came to conclusion that the accident has taken place due to the rash and negligent driving of the driver of the offending vehicle, accordingly, fixed the liability to second respondent and granted the compensation as tabulated below:

<i>Calculation</i>	<i>Rs.</i>
Loss of dependency	Rs.1,48,500/-
Love and affection	Rs.50,000/-
Pain and sufferings	Rs.50,000/-
Funeral expenses	Rs.20,000/-
Transport expenses	Rs.2,000/-
Total compensation is hereby fixed at	Rs.2,70,500/-

6.Heard Mr.C.Harish, learned counsel for the appellants and Mr.S.Arunkumar, learned counsel for the second respondent and perused the materials placed on record.

7. Considering the facts and also taking note of the plea raised by the learned counsel for the appellants, this Court is of the considered view that the future prospects is fixed at 10% on the income of the deceased [(i.e., $4500=450(10\%)=Rs.4950/-$] and the same is deducted by $1/4$ [(i.e., $4950-1/4=3712.5$)] which should be calculated by following multiplier method [(i.e., $Rs.3712 \times 12 \times 11=Rs.4,90,050$)], hence the loss of dependency is assessed at



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Rs.4,90,050/-; however, pain and sufferings which was fixed as Rs.50,000/- by the Tribunal is hereby denied by this Court. Accordingly, the award amount is modified as below:

<i>Calculation</i>	<i>Rs.</i>
Loss of dependency	Rs.4,90,050/-
Loss of love and affection	Rs.50,000/-
Funeral expenses	Rs.20,000/-
Transport expenses	Rs.2,000/-
Total compensation is hereby fixed at	Rs.5,62,050/-

8. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed to the extent indicated above. Accordingly, the compensation awarded is enhanced from Rs.2,70,500/- to Rs.5,62,050/-. The rate of interest awarded by the Tribunal remains in tact. No Costs. It is made clear that the appellants/claimants are not entitled for payment of interest for the delayed period in filing the present appeal as per the Order dated 20.07.2018 made in C.M.P.No.11833 of 2017 in C.M.A.SR.No.55837 of 2017.

(ii) the second respondent is directed to deposit the enhanced award amount before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) On such deposit being made, the claimants are permitted to withdraw



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their share in the 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 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.

22.06.2023

Internet : Yes/No
Speaking Order/Non-Speaking Order
dhk

To

The Presiding Officer,
Motor Accidents Claims Tribunal
(Subordinate Judge Court)
Mettur

A.A.NAKKIRAN, J.



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