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C.M.A.No.1685 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.1685 of 2018

1.R.Suganthi
2.Murugeshwari
3.K.Singaraj

.. Appellants

Versus

1.B.Mohanraj

2.The New India Assurance Co.Ltd
No.45, Moore Street, V Floor
Chennai – 600 001

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree of the Motor Accidents Claims Tribunal (II Court of Small Causes, Chennai) made in M.C.O.P.No.7163 of 2013 dated 11.10.2017.

For Appellant	: Mr.N.M.Muthurajan
For Respondents	: No appearance for R1 G.Anandan for R2

JUDGMENT

The Civil Miscellaneous Appeal has been filed against the Judgment and



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Decree of the Motor Accidents Claims Tribunal (II Court of Small Causes, Chennai) made in M.C.O.P.No.7163 of 2013 dated 11.10.2017.

2. On 20.08.2013, the deceased namely S.Raja was driving Motor Cycle, the lorry of the first respondent hit the motor rider, sustaining injuries and subsequently, he died. Hence, the claim petition.

3. The appellants 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 the Insurance Company. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

4. During the trial before the Tribunal, the second appellant was examined as PW1. Ex.P1 to P11 were marked. Ex.P1 is the FIR Copy, Ex.P6 is the legal heir certificate, Ex.P5 is the death report. The Tribunal on consideration 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



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of the offending vehicle, accordingly, granted the compensation as tabulated below:

Calculation	Rs.
Loss of pecuniary benefits of the deceased (Income & Future Prospects i.e., Rs.8000+50% = Rs12,000/-) After 30% deduction = Rs.8400 x 12 x 17	Rs.17,13,600/-
Loss of love and affection 2 and 3 rd petitioner Rs.50,000x2	Rs.1,00,000/-
Loss of Consortium to the first petitioner	Rs.1,00,000/-
Funeral expenses	Rs.25,000/-
Total compensation is hereby fixed at	Rs.19,38,600/-

5.Heard Mr.N.M.Muthurajan, learned counsel for the appellants and Mr.G.Anandan, learned counsel for the second respondent and perused the materials placed on record.

6. Considering the facts and also taking note of the plea raised by the learned counsel for the appellant, this Court is of the considered view that the income of the deceased should be fixed at Rs.12,000 and future prospects at 40% [(i.e., 12000+40%=Rs.16,800/-] after deducting the same from by 1/3 it comes to Rs.11200 x 12 x 17 = Rs.22,84,800, which comes under the heading Loss of pecuniary benefits of the deceased; however, loss of love and affection



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to the appellants 2 and 3 is reduced to Rs.80,000/- and loss of consortium to the first appellant is also reduced to Rs.40,000/-; similarly, funeral expenses is also reduced at Rs.15,000/-. It is seen in the award that the loss of estate of the deceased was not granted to the claim petitioners/appellants, however, this Court is hereby granting the same to the claim petitioners/appellants at Rs.15,000/-. Accordingly, the award amount is modified as below:

Calculation	Rs.
Loss of pecuniary benefits of the deceased (Income & Future Prospects i.e., Rs.12,000+40% = Rs.16,800/-) After 1/3rd deduction = Rs.11200 x 12 x 17	Rs.22,84,800/-
Loss of love and affection 2 and 3 rd petitioner Rs.40,000x2	Rs.80,000/-
Loss of Consortium to the first petitioner	Rs.40,000/-
Funeral expenses	Rs.15,000/-
Loss of Estate of the deceased	Rs.15,000/-
Total compensation is hereby fixed at	Rs.24,34,800/-

7. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed to the extent indicated above. Accordingly, the compensation awarded is enhanced from Rs.19,38,600/- to Rs.24,34,800/-. The rate of interest awarded by the Tribunal remains in tact. No Costs. It is made clear that the appellants are not entitled for



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payment of interest for the delayed period in filing the present appeal.

(ii) the Second Respondent/Insurance Company 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 and recover the same from the owner of the offending vehicle/first respondent.

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

20.06.2023

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

A.A.NAKKIRAN, J.



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To

The Presiding Officer,
Motor Accidents Claims Tribunal
II Court of Small Causes,
Chennai

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