



C.M.A.No.795 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.09.2023

CORAM :

THE HONOURABLE **MR.JUSTICE SUNDER MOHAN**

C.M.A.No.795 of 2023

E.Singaravelan (Since Deceased)

- 1.S.Susila
- 2.S.Yuvaraj
- 3.S.Saravanan
4. S.Radhika

...Appellants/Petitioners

Vs.

- 1.E.Ramesh,
- 2.United India Insurance Co.Ltd.,
No.134, Silingi Buildings,
Greens Road, Chennai – 600 006.

...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988, against the order made in M.C.O.P.No.3093 of 2020, dated 26.09.2022, on the file of the Motor Accident Claims Tribunal, in the II Court of Small Causes, Chennai.



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For Appellants : Mr.K.Suryanarayanan
For Respondents : R1 - Notice dispensed with
R2 – Mrs.R.Srividhya

J U D G M E N T

The claimants have preferred the instant appeal seeking enhancement of compensation.

2. One E.Singaravelan, was injured in the accident, and filed a claim petition. He subsequently died during the pendency of the claim petition. Since he was in a vegetative state, the claim petition was filed through his wife, who is the first appellant herein. On his death, the appellants 1 to 4 were impleaded as petitioners in the claim petition.

3. It is the case of the appellants that on 28.09.2020 at about 15.45 hours, when the said Singaravelan was walking on the road, a motor-cycle, bearing Reg.No.TN-21-BL-1455 belonging to the first respondent and insured with the second respondent, came in a rash and negligent manner and hit him, as a result of which he sustained grievous injuries and thereafter, he succumbed to the injuries on 13.07.2021.



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4. The first respondent remained ex-parte before the Tribunal.

5. The second respondent/insurance company filed a counter stating that the accident took place only due to the negligence of the deceased; that the rider of the two wheeler did not have a valid driving license at the time of the accident; that there is no nexus between the accident and the death; that the deceased did not take proper treatment and therefore, the second respondent was not liable to pay compensation; and that in any case, the compensation claimed was excessive.

6. Before the Tribunal, the appellants examined P.W.1 to P.W.3 and marked twenty documents as Exs.P1 to P.20. The second respondent neither examined any witness nor marked any document.

7. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place due to the negligence of the rider of the two wheeler; and that the appellants have established the nexus between the accident and the death and directed the second respondent to pay a sum of Rs.9,65,000/- as compensation to the appellants.

8. The learned counsel for the appellants submitted that the Tribunal



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had erroneously rejected the medical bills produced on the side of the appellants namely Exs.P4, P.6 and P.18. The learned counsel further submitted that the Tribunal had not assigned any reason for rejecting the said medical bills which were issued by the Hospital, which treated the deceased; that the total expenses incurred by the deceased for the treatment, as per three medical bills, was Rs.14,36,436/- and that the said amount has to be awarded as compensation under the head “Medical Expenses”.

9. Since the first respondent remained ex-parte before the Tribunal, the learned counsel for the appellants made an endorsement to dispense with notice to the first respondent. Hence, notice to the first respondent is dispensed with.

10. The learned counsel for the second respondent/insurance company fairly submitted that the Medical Bills submitted by the appellants before the Tribunal are genuine.

11. Heard the learned counsel for the appellants as well as the second



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respondent and perused the materials available on record.

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12. The only question involved in the instant appeal is whether the appellants are entitled to a sum of Rs.14,36,500/- under the head “Medical Expenses”?

13. On perusal of the records, it is seen that the deceased had taken treatment in a private hospital which had issued three Medical Bills which were marked as Exs.P4, P6 and P18. It can be seen from the above three exhibits that the total expenses incurred by the deceased for the treatment was Rs.14,36,500/-. Since this fact is not disputed by the second respondent, the Tribunal ought not to have rejected the Medical Bills while computing the compensation. Therefore, this Court is of the view that the appellants are entitled to compensation to the tune of Rs.14,36,500/- under the head “Medical Expenses”.

14. The award under the other heads is just and reasonable and hence,



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the same is confirmed. Thus, the compensation awarded by the Tribunal is enhanced from Rs.9,65,000/- to Rs.24,01,500/-. The break-up is as follows:-

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	7,56,000/-	7,56,000/-	Confirmed
2.	Loss of Consortium	1,76,000/-	1,76,000/-	Confirmed
3.	Loss of Estate	16,500/-	16,500/-	Confirmed
4.	Funeral Expenses	16,500/-	16,500/-	Confirmed
5.	Medical Expenses	---	14,36,500/-	Granted
	Total	Rs.9,65,000/-	Rs.24,01,500/-	Enhanced by Rs.14,36,500/-

15. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.9,65,000/- is hereby enhanced to Rs.24,01,500/- together with interest at 7.5% per annum (excluding the default period, if any) from the date of petition till the date of deposit. The second respondent/Insurance Company is



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directed to deposit the award amount, now determined by this Court, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit, the first appellant is permitted to withdraw a sum of Rs.16,51,500/- and the appellants 2 to 4 are permitted to withdraw a sum of Rs. 2,50,000/- each, along with proportionate interest and costs, after adjusting the amount if any, already withdrawn. The appellants are directed to pay the necessary Court Fee, if any, on the enhanced award amount. No costs.

29.09.2023

dk

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

Copy to:-

- 1.The II Court of Small Causes,
Chennai.
2. The Section Officer,
VR Section,
High Court,
Madras.

SUNDER MOHAN, J.

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