



WEB COPY



CMA.No.1024 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.1024 of 2022

Selvi (Died)

1.Vidhya

2.Minor Elavarasi

Rep. by natural Guardian and Sister,

Vidhya, 1st petitioner herein.

3.Mariyayee

... Appellants

-Vs-

1.A.Dhanalakshmi

2.United India Insurance Company Limited,

rep. by its Manager, 50A,

Pallivasal Street, Perambalur – 621 212.

...Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 25/02/2021 and made in MCOP.No.386/2018 on the file of Motor Accidents Claims Tribunal/Principal District Judge, Perambalur.

For Appellants : Mr.C.Vidhusan

For R1 : No appearance

For R2 : M/s.I.Malar

JUDGMENT



CMA.No.1024 of 2022

WEB COPY

In a road accident that took place on 12.03.2018, a certain Selladurai was fatally knocked by a goods carrier bearing Regn.No.TN 46 M 3235 belonging to the first respondent and insured with the second respondent. Selvadurai was riding a motor cycle bearing Regn.No.TN 46 L 5863 then. Selvadurai was an agricultural coolie and was 42 years when he died and left behind surviving his widow and two young daughters. Seeking compensation, the dependents of Selvadurai approached Motor Accident Claims Tribunal, Principal District Court, Perambalur with MCOP.No.386 of 2018.

2.For assessing compensation under the head of loss and dependency, the Tribunal reckoned the monthly income of the victim of the accident notionally at Rs.7,500/-, to which it added another 25% towards future prospects of increase in income and applied 14 as the multiplier and deducted 1/3rd towards the personal expenditure of the victim and arrived at a net value of compensation on this head at Rs.10.50 Lakhs. After adding the compensation under other conventional heads, it arrived at a net value of compensation at Rs.10,80,000/-



CMA.No.1024 of 2022

3. Aggrieved by the inadequacy of compensation awarded, the daughters of the victim are before this Court. It may be stated that the mother of these children, had died during the pendency of the claim petition before the Tribunal.

4. The learned counsel for the appellants made only two pointed statements; a) that the notional income as fixed by the Tribunal is unrealistically low; b) that the Tribunal has not fixed any compensation for loss of love and affection.

5. On careful consideration of the statement made by the learned counsel for the appellants, this Court deems it appropriate to fix Rs.10,000/- notionally as the monthly income of the victim, to which it adds another 25% towards future prospects of increase in income, applies 14 as the multiplier and deducts $\frac{1}{3}$ rd towards the personal expenditure of the victim and arrives at a net value of Rs.14,00,000/- as compensation for loss of dependency. This Court retains the compensation awarded by the Tribunal towards the loss of estate and funeral expenses. To this, this court adds another Rs.1,32,000/- towards loss of love and affection for all



CMA.No.1024 of 2022

the three claimants. Which implies, the total value of the compensation now determined is Rs.15,62,000/-. The break-up 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	10,50,000/-	14,00,000/- -	Enhanced
2.	Loss of Estate	15,000/-	15,000/-	Confirmed
3.	Funeral Expenses	15,000/-	15,000/-	Confirmed
4.	Loss of love and affection	-	1,32,000/-	-
Total		10,80,000/-	15,62,000/- -	Enhanced by 4,82,000/-

6.In fine, this appeal is partially allowed and the compensation payable is increased from Rs.10,80,000/- to Rs.15,62,000/-, together with interest at 7.5% per annum, from the date of petition till the date of deposit. The second respondent/insurance company is now required to deposit the entire compensation amount with interest at 7.5%, less any amount already deposited, within a period of six (6) weeks from the date of



CMA.No.1024 of 2022

WEB COPY

receipt of a copy of this order. The enhanced portion of the compensation is required to be apportioned in the same ratio in which the Tribunal has apportioned the compensation. On such deposit, the appellants 1 and 3 are permitted to withdraw the award amount, now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. The compensation amount pertaining to the second appellant viz., Minor Elavarasi is directed to be deposited in a nationalised Bank in the interest bearing Fixed Deposit till the minor attains the age of majority and the natural guardian of the minor viz., Vidhya is permitted to withdraw the accrued interest on the deposit of the minor once in six months. The appellants are directed to pay the necessary Court Fee, if any, on the enhanced award amount. No costs.

13.12.2023

Tsg

N.SESHASAYEE, J.,

Tsg



CMA.No.1024 of 2022

WEB COPY To

- 1.The Motor Accident Claims Tribunal,
The Principal District Judge, Perambalur.
- 2.The Section Officer,
V.R.Section, High Court, Madras.

CMA.Nos.1024 of 2022

13.12.2023