



C.M.A.No.3439 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 04.01.2023	Pronounced on .01.2023
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3439 of 2021

1.Meenakshi

W/o.Dayalan

2.Dayalan

S/o.P.C.Gopal

Now both are residing at

No.424, “L”, 5th Street

Paramakudi

Ramanathapuram – 623 207

.. Appellants

Versus

1.Kanjanadevi. V

W/o. Visvanathan

No.3/859A, Bharathi Nagar

1st Street, Paramakudi

Ramanathapuram

Tamil Nadu – 623 207

2.The Manager

United India Insurance Company Limited

No.73C, MTH Road

Ambattur

Chennai – 602 002

... Respondents



C.M.A.No.3439 of 2021

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 11.12.2019 made in MCOP.No.4374 of 2016 on the file of the Motor Accident Claims Tribunal (Special Sub-Court II) at Chennai.

For Appellants : Mr.A.S.Vijay Anand
For Respondents : Mr.D.Bhaskaran (for R2)
R1 – No apperanance

JUDGMENT

The Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 11.12.2019 made in MCOP.No.4374 of 2016 on the file of the Motor Accident Claims Tribunal (Special Sub-Court II) at Chennai.

2. The Claim Petitioners are the parents of the deceased. The Tribunal has awarded a sum of Rs.19,24,400/- with interest at the rate of 7.5% per annum from the date of numbering of the MCOP Petition till the date of deposit and costs. Aggrieved, they have filed this appeal seeking enhancement of compensation.

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

4. The manner of the accident, the factum of accident and the rash and



C.M.A.No.3439 of 2021

negligent driving on the part of the driver of first respondent offending vehicle are not in dispute and the said findings rendered by the Trial Court are hereby confirmed.

5.Heard the learned counsel for the Claim Petitioners and the learned counsel for the Insurance Company on the point of the quantum of compensation.

6. The learned counsel for the appellants would contend that the deceased was studying B.B.A and Ex.P12, Consolidated fees receipts was also marked. During the final year course, he had got an employment letter offering Rs.12,000 per month, however, before joining the employment, he died in the accident and the said offer letter is marked as Ex.P22. Hence, sought for enhancement of compensation.

7. On perusal of the Judgment rendered by the Tribunal, I find that though, the PW1, parent of the deceased has stated that as per the offer letter, the deceased is entitled for salary, no document has been filed indicating the



C.M.A.No.3439 of 2021

salary and Ex.P22 - Offer letter was marked by the appellants and not through the staff of the company.

8. Be that as it may, the Tribunal has fixed the income as Rs.6,500/-, following the ratio of this Court in the case of *Andal and others Vs. Avinav Kannan* reported in 2019(1) TN MAC 54(DB), wherein, this Court had fixed the notional income as per the Cost of Inflation Index issued by the Central Board of Direct Tax. Thus, the Trial Court arrived at the notional income as Rs.13,302/- ($6500 \times 264/129 = 13,302/-$). Since, the claim petitioners had claimed Rs.12,000/-, the Tribunal has granted salary as claimed by the claim petitioners, future prospects at 40% (i.e., $12,000 \times 40/100 = 4,800/-$), totalling (i.e., $12,000 + 4,800 = 16,800$ per month), annually as Rs.2,01,600/-. Further, 50% deduction was made viz., 1,00,800/- ($2,01,600 \times 50/100$). As per *Sarla Varma & Others Vs. Delhi Transport Corporation* reported in 2009 (6) SCC 121, by applying Multiplier 18, the total loss of dependency to the claim petitioners was arrived at Rs.18,14,400/- (i.e., $1,00,800 \times 18 = 18,14,400$). Furthermore, the Trial Court has granted Rs.15,000/- towards Loss of estate, Rs.15,000/- towards Funeral expenses and Rs.80,000/- (40,000/- each), towards loss of love



C.M.A.No.3439 of 2021

and affection to the claim petitioners 1 and 2 / parents totalling to the tune of Rs.19,24,400/-.

9. Considering the facts of the case and the quantum of compensation awarded by the Trial Court for loss of estate, funeral expenses and loss of love and affection to the claim petitioners, I find that awarded amount is just and fair which does not require interference at this appellate stage.

10. Accordingly, this Civil Miscellaneous Appeal stands dismissed. No costs.

.01.2023

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

RMT.TEEKAA RAMAN.J,



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C.M.A.No.3439 of 2021

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To

1. The Presiding Officer
Motor Accident Claims Tribunal
(Special Sub-Court II)
Chennai.

2.The Manager
United India Insurance Company Limited
No.73C, MTH Road
Ambattur
Chennai – 602 002

**Pre-delivery Judgment made in
C.M.A.No.3439 of 2021**

.01.2023