



C.M.A. No.1451 of 2022

C.M.A.No.1451 of 2022

SUNDER MOHAN, J.

Today, this appeal is listed under the caption 'For being spoken to'.

2. It is brought to the notice of this Court that in Para Nos.12 and 13 of the judgment of this Court dated 26.07.2023, the total amount of compensation has been mentioned as Rs.22,26,800/- as against Rs.22,66,800/-.

3. In view of the above, paragraph Nos.12 and 13 of the judgment of this Court dated 26.07.2023 reads as follows :

12. The Tribunal has not awarded any amount towards loss of love and affection to the appellants 2 & 3. The appellants 2 & 3 who are the sisters of the deceased have lost their brother at his young age. Hence, a sum of Rs.40,000/- each is awarded under the head loss of love and affection. The compensation awarded by the Tribunal under other heads are just and reasonable and hence the same are confirmed. Thus, the compensation awarded by the Tribunal is enhanced from Rs.15,82,000/- to Rs.22,66,800/-, break-up as follows -



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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	15,12,000/-	21,16,800/-	Enhanced
2.	Loss of love & affection to appellants 2 & 3	-	80,000/-	Granted
3.	Loss of Estate	15,000/-	15,000/-	Confirmed
4.	Loss of consortium to 1 st appellants	40,000/-	40,000/-	Confirmed
5.	Funeral expenses	15,000/-	15,000/-	Confirmed
	Total	15,82,000/-	22,66,800/-	Enhanced by Rs.6,84,800/-

13. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.15,82,000/- is hereby enhanced to **Rs.22,66,800/-** 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 respondent is directed to deposit the award amount, now determined by this Court along with interest and costs, 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 1st appellant is permitted to withdraw **Rs.21,86,800/-** and the appellants 2 & 3 are permitted to withdraw Rs.40,000/- each, along with proportionate interest and costs, less the amount if any, already withdrawn.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.



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4. Registry is directed to issue order copy after carrying out the above corrections. The other contents of the judgment of this Court dated 26.07.2023 shall remain unaltered.

16.08.2023

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SUNDER MOHAN,J.

Rgr

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16.08.2023



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

CORAM :

THE HONOURABLE **MR.JUSTICE SUNDER MOHAN**

C.M.A.No.1451 of 2022

1.R.Tamilselvi

2.R.Saritha

3.R.Sasikala

..

Appellants

Vs.

The Commissioner of Police,

Greater Chennai Police,

Vepery, Chennai – 600 007.

..

Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in MCOP No.6505 of 2019 dated 16.12.2021 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellants : Mr.R.Mohan Babu

For Respondents : Mr.P.Harish,
Govt. Advocate



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J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellants challenging the quantum of compensation granted by the Tribunal in MCOP No.6505 of 2019 dated 16.12.2021 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

2. The appellants filed M.C.O.P. No.6505 of 2019 dated 16.12.2021 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai claiming a sum of Rs.45,00,000/- as compensation for the death of R.Gopinath, who died in the accident that took place on 10.10.2019.

3. According to the appellants, on the date of accident, i.e. on 10.10.2019 while the deceased Gopinath was riding motorcycle bearing Regn. No.TN31-CA 5926 in CTH Road from East to West direction, near Tamil Nadu Special Police Force Arch Gate No.2, a police Innova Car bearing Regn.No.TN01-G-7857 which was coming in the opposite direction, driven by its driver in a rash and negligent manner, suddenly turned towards South direction, hit against the deceased and caused the accident. In the above



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accident, the said Gopinath fell down from the motorcycle, sustained severe head injuries and died in the hospital.

4. The respondent filed counter statement denying the averments made by the appellants in the claim petition. According to the respondent, the accident occurred only due to the negligent act of the deceased who drove the motorcycle in a rash and negligent manner, hit the back mud flap of the Innova car and thereby invited the accident. The total compensation claimed by the appellants are excessive and prayed for dismissal of the claim petition.

5. Before the Tribunal, the 1st appellant examined herself as PW1, Sub-Inspector, Traffic and Investigation Wing, Poonamallee was examined as PW2 and eye witness to the accident was examined as PW3. Fourteen documents were marked as Exs.P.1 to Exs.P.14. On the side of the respondent, driver of the Chennai Central Crime Branch, Team 19 was examined as RW1 but no document was marked. Exs.X1 to X4 were marked through PW2.



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6. The Tribunal after considering the evidence and documents filed on the side of the appellants as well as respondent, held that the accident occurred due to the rash and negligent driving by the driver of the car belonging to the respondent and awarded a compensation of Rs.15,82,000/- to the appellants. Aggrieved by the said order, the appellants have preferred the present appeal seeking enhancement of compensation.

7. The learned counsel appearing for the appellants submitted that the notional monthly income fixed by the Tribunal at Rs.10,000/- is meagre. At the time of accident, the deceased was aged 19 years working as a Mobile Sales Representative at Chennai Mobile Showroom, Ambattur and was earning a sum of Rs.15,000/- per month apart from Rs.8,000/- as incentive. The learned counsel further submitted that the Tribunal ought to have taken the notional monthly income of the deceased at Rs.15,000/-. He also submitted that the Tribunal erred in deducting 50% towards personal expenses of the deceased as against 1/3rd since the dependants are widow mother and two unmarried sisters. The learned counsel further submitted that the appeal filed by the respondent



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challenging the compensation awarded by the Tribunal was dismissed by this Court on 25.01.2023 in CMA No.170 of 2023. However, this Court, on 05.07.2023, in CMP N.14027 of 2023 in CMA N.170 of 2023 had granted liberty to the appellants to pursue this appeal without being influenced by the observations made in CMA No.170 of 2023. The learned counsel further contended that the Tribunal failed to award any amount towards loss of love and affection to the appellants 2 & 3. The compensation awarded by the Tribunal under other heads are also meagre. For the above reasons, the learned counsel prayed for enhancement of compensation.

8. The learned counsel for the respondent, per contra submitted that the appellants have not produced any documents to substantiate the avocation and income of the deceased. In the absence of any material evidence, the Tribunal was right in fixing the notional income of the deceased at Rs.10,000/- per month. The learned counsel further submitted that the compensation awarded under other heads are also just and reasonable and hence no interference is called for in the award passed by the Tribunal and prayed for dismissal of the



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appeal.

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9. Heard the learned counsel appearing for the appellants as well as respondent and perused the materials available on record.

10. The only issue involved in this appeal is whether the compensation awarded by the Tribunal is just and reasonable.

11. From the materials available on record, this court finds that the notional income fixed by the Tribunal at Rs.10,000/- for the accident which took place in the year 2019 is meagre. Considering the year of accident, age of the deceased, nature of avocation, cost inflation index and the formulae adopted by this Court in *Andal and others vs. Avinan Kannan and another reported in 2019 (1) TN MAC 54 (DB)*, this Court is of the considered view that the notional income of the deceased can be fixed at Rs.14,000/- per month. Since the deceased was a bachelor, 50% has to be deducted towards personal expenses of the deceased. The multiplier applicable is 18. Thus,



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the compensation awarded by the Tribunal under the head loss of dependency
is calculated as follows -

$$\text{Rs.14,000} + 5,600 (14000 \times 40\%) \times 12 \times 18 \times 50\% = \text{Rs.21,16,800/-}$$

12. The Tribunal has not awarded any amount towards loss of love and affection to the appellants 2 & 3. The appellants 2 & 3 who are the sisters of the deceased have lost their brother at his young age. Hence, a sum of Rs.40,000/- each is awarded under the head loss of love and affection. The compensation awarded by the Tribunal under other heads are just and reasonable and hence the same are confirmed. Thus, the compensation awarded by the Tribunal is enhanced from Rs.15,82,000/- to Rs.22,26,800/-, break-up as follows -



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4.	Loss of consortium to 1 st appellants	40,000/-	40,000/-	Confirmed
5.	Funeral expenses	15,000/-	15,000/-	Confirmed
	Total	15,82,000/-	22,26,800/-	Enhanced by Rs.6,44,800/-

13. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.15,82,000/- is hereby enhanced to Rs.22,26,800/- 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 respondent is directed to deposit the award amount, now determined by this Court along with interest and costs, 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 1st appellant is



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permitted to withdraw Rs.21,46,800/- and the appellants 2 & 3 are permitted to withdraw Rs.40,000/- each, along with proportionate interest and costs, less 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.

26.07.2023

rgr

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1.The Chief Judge,
Motor Accident Claims Tribunal
Small Causes Court,
Chennai.

2.The Section Officer,
VR Section,
High Court, Madras.

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