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C.M.A.No.429 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.03.2023

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.429 of 2023

1.Arul, S/o.Ranganathan,
2.Minor Vasugi, D/o.Arul,
3.Minor Jagan, S/o.Arul,
Minors represented by Father natural guardian Arul,
All are residing at No.38,
Pandiamman Koil Street,
Thakkolam, Arakkonam Taluk.

... Appellants

Vs.

1.Parasuraman,
No.14, Pattumudayar Kuppan Main Road,
Pichivakkam,
Arakkonam Taluk.

2.The Manager,
National Insurance Company Limited,
Old No.144, New No.46,
3rd Floor, Moore Street,
Regina Mansion,
Chennai 1

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and decree dated 16.10.2019 made in MCOP.No.653 of 2016, on the file of MACT/Additional District Court (FTC) at Kanchipuram with interest and cost.



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For Appellants : Mr.M.Lokesh

For Respondents : Mrs.R.Sree Vidhya (for R2)

J U D G M E N T

The Appeal has been filed against the Judgment and decree dated 16.10.2019 made in MCOP.No.653 of 2016, on the file of MACT/Additional District Court (FTC) at Kanchipuram with interest and cost.

2.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.653 of 2016, on the file of MACT/Additional District Court (FTC) at Kanchipuram. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The legal representatives of the deceased/Sumathi filed MCOP.No.653 of 2016, on the file of MACT/Additional District Court (FTC) at Kanchipuram, seeking compensation and filed this Appeal for enhancement of compensation.

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



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driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent and pay and recover ordered by the Tribunal are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent and 'pay & recovery' are hereby confirmed.

5.During the trial, on the side of the claim Petitioners, PW1 & PW2 were examined & Ex.P.1 to Ex.P.8 were marked and on the side of the Respondents, none was examined and no document was marked.

6.Heard the learned counsel appearing on behalf of the claim Petitioners and the learned counsel appearing on behalf of the Insurance Company on the point of quantum of compensation.

7.The claim Petitioners are the Husband and minor Son and Daughter of the deceased. The deceased was working as tailor and met with an accident on 25.12.2015 and died despite treatment. Based upon both oral and documentary evidences, the Tribunal has awarded a sum of Rs.13,30,000/- as compensation



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and hence the Appeal.

8. After perusing the oral and documentary evidences and also taking note of the date of the accident ie., 25.12.2015, the notional income of the deceased is fixed at Rs.11,000/- per month. The Tribunal has assessed the age of the deceased as 40 years, granted 40% towards future prospects and as per the judgment of the Hon'ble Supreme Court in the case of ***Sarla Verma & Others .Vs. Delhi Transport Corporation & another***, reported in ***2009 (2) TNMAC 1 (SC)***, fixed the right multiplier of '15' for the age of the deceased. The same are hereby confirmed. Since the size of the family is 3, $1/3^{\text{rd}}$ was deducted by the Tribunal, towards personal expenses of the deceased. The same is also hereby confirmed and hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$\text{Rs.11,000/-} + 40\% \text{ of Rs.11,000/-} = \text{Rs.15,400/-}$$

$$\text{Rs.15,400/-} \times 15 \times 12 \times 2/3 = \text{Rs.18,48,000/-}$$

9. The Tribunal has awarded a sum of Rs.40,000/- to the 1st claim



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Petitioner towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. The same are hereby confirmed. A sum of Rs.40,000/- each is awarded to the minor claim Petitioners 2 & 3 and a sum of Rs.15,000/- is awarded towards transportation.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	1848000
2	Loss of consortium	40000
3	Loss Love and affection	80000
4	Funeral expenses	15000
5	Loss of Estate	15000
6	Transportation	15000
	Total	2013000

In total, the claim Petitioners are entitled to a sum of Rs.20,13,000/- (Rupees twenty lakh and thirteen thousand only). Interest awarded by the Tribunal at the rate of 7.5% per annum is also hereby confirmed. The Appeal was filed with the delay of 45 days in filing the Appeal, and while allowing the condone delay petition in C.M.P.No.22201 of 2022, this Court had held that the claim Petitioners will not be entitled to interest for the default period.

10.In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the



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compensation from Rs.13,30,000/- to Rs.20,13,000/- with 7.5% interest per annum to the extent indicated above. No Costs.

(ii) the Insurance Company is directed to deposit the enhanced award amount, with interest and costs [excluding the period of default of 45 days in filing the Appeal] before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order and recover the same from the owner of the offending vehicle.

(iii) on such deposit being made, all the claim Petitioners/Appellants are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The 1st claim Petitioner/1st Appellant is permitted to withdraw his entire share with proportionate interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal. The claim Petitioners 2 & 3/Appellants 2 & 3 are minors. The share of the minors shall be kept in an interest bearing fixed deposit in any of the nationalised bank, till they attain majority. The 1st claim Petitioner/1st Appellant, who is the guardian of minors, is permitted to withdraw the interest from the deposit of the minors once in three months.



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(iv) the claim Petitioners 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.

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Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To
The Additional District Judge,
Motor Accident Claims Tribunal,
Additional District Court (FTC),
Kanchipuram.



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RMT.TEEKAA RAMAN.J,

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