



C.M.A No.2692 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.11.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.2692 of 2023

1.Radha
2.Ashok Kumar
3.Sivakumar
4.Dharani

... Appellants

Vs.

1.Manikandan
2.The Divisional Manager,
The United India Insurance Company Ltd.,
No.46, Katpadi Raod, Vellore.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Acct, 1988, seeking to enhance the award against the judgment and decree dated 02.02.2017 and made in M.A.C.T.O.P.No.153 of 2016 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Thiruvannamalai.

For Appellants : Ms.M.Malar

For Respondents : Ms.I.Malar for R2



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JUDGMENT

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The claimants are the heirs of the victim, Kothandapani, who died in a road accident that took place on 27.01.2015 at around 7:00 p.m., while he was riding his bicycle that was fatally knocked down by a motorcycle. Seeking compensation, the claimants approached the MACT (Special Sub Court), Thiruvannamalai, with M.C.O.P.No.153 of 2016. The Tribunal had awarded a total compensation of Rs.9,72,200/- to be paid with interest at 7.5% per annum. The claimants dissatisfied with the said sum, have preferred this appeal for enhancement.

2.Since the first respondent remained ex parte before the Tribunal, notice to the first respondent is dispensed with.

3.Ms.M.Malar, the learned counsel for the appellant submitted that the victim was 55 years old when he died and was a vegetable vendor, but the Tribunal had only fixed Rs.6,000/- as notional income and arrived at Rs.7,72,200/- as loss of dependency. She also submitted that towards loss of love and affection for claimants 2 to 4, the Tribunal had awarded only Rs.25,000/- each.



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4.Per contra, Ms.I.Malar, the learned counsel for the second respondent submitted that only 10% could be added to the notional income towards future prospects in earning of the victim, whereas, the Tribunal had added 30%.

5.After weighing rival submissions, this Court considers that even going by standard of living in 2015, Rs.6,000/- as fixed by the Tribunal as notional monthly income of the victim is on the lower side. This Court, therefore, fixes it at Rs.10,000/-, to which it adds 10% towards future prospects and applies multiplier of 11 and deducts 1/4 towards personal expenditure of the victim and arrives at a value of loss of dependency at Rs.10,89,000/-.

6.The compensation awarded by the Tribunal under other heads are adjusted as hereunder:-

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income / dependency	Rs.7,72,200/-	Rs.10,89,000/-	enhanced



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2.	Loss of consortium for the 1st petitioner	Rs.1,00,000/-	--	--
3.	Loss of love and affection of the petitioners 2 to 4	Rs.75,000/-	Rs.40,000/-	granted
4.	Funeral expenses of the deceased Tr.Kothand apani	Rs.25,000/-	Rs.25,000/-	confirmed
5.	Grand Total	Rs.9,72,200/-	Rs.11,54,000/-	Enhanced by Rs.1,81,800/-

7. Therefore, the total compensation is enhanced by Rs.1,81,800/-. The insurance company had already deposited the entire amount awarded by the Tribunal and which is also stated to have been withdrawn by the claimants. The insurance company is now required to deposit the differential sum of Rs.1,81,800/- with interest at 7.5% per annum from the date of this order till the date of payment, within a period of six (6) weeks from the date of receipt of a copy of this order. The Tribunal had ordered pay and recover, and this will apply in equal measure to oppose



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this award as well. The appellants are directed to pay the necessary Court Fee, if any, on the enhanced award amount.

8.This Civil Miscellaneous Appeal stands partly allowed. No costs.

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Anu

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The Motor Accident Claims Tribunal,
Special Sub Court, Thiruvannamalai



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N.SESHASAYEE, J.

Anu

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