



C.M.A.No.794 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

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1.K.B.Rajeswari

2.Minor Dowmitha

3.Anusuya

(Minor 2nd appellant is represented
by his mother, guardian and next
friend, the 1st appellant Rajeswari)

... Appellants

..Vs..

1.M.Sarasu

(set exparte before the Tribunal)

2.Sriram General Insurance Company Limited

Plot No.5, Ramachandran Street

Saravana Nagar, Seevaram

Perungudi

Chennai-600 096.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, as against the judgment and decree dated 22.12.2017 made in M.C.O.P No.89 of 2016 on the file of the Motor Accident Claims Tribunal/ I Additional District Judge,Cuddalore.

For Appellants

: Mrs.Ramya V.Rao

For Respondents

: Mr.S.Dhakshnamoorthy for R2
R1- Exparte before the Tribunal



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JUDGMENT

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2. The Appellants unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award have preferred this appeal seeking enhancement.

3. The details of the compensation awarded by the Tribunal under the impugned award are as follows:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Pecuniary loss of income	32,55,660/- (27,131 – 1/3 = 18087 x 12 x 15)
Love and Affection to 2nd and 3rd claimants	15,000/-
Loss of Consortium to wife	40,000/-
Transport charges and	15,000/-



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<i>Heads</i>	<i>Award Amount (Rs.)</i>
Funeral Expenses	
Medical Expenses	57,364/-
Total	33,83,024/-

4. The learned counsel appearing on behalf of the appellants mainly contended that the entire quantum of compensation awarded by the Tribunal is very low. Further, the compensation awarded under the other heads viz., loss of consortium, love and affection, medical expenses, transportation and funeral expenses is very low and also the Tribunal has failed to award any compensation towards loss of amenities. Hence, he prays for enhancement of Award amount.

5. The learned counsel appearing for the second respondent/ insurance company submitted that after considering the oral and documentary evidence record, the Tribunal has awarded a just and reasonable compensation and therefore, the award passed by the Tribunal does not warrant any interference by this court.



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6. Heard the learned counsel appearing for the appellants and the learned counsel appearing for the second respondent/Insurance Company and also perused the materials on record.

7. The Tribunal has rightly applied the 15 multiplier since the deceased was aged 40 years at the time of accident as per Ex.P11 Identity card of the deceased and Ex.P14-driving license. Since the Appellants are wife, child and the mother of the deceased, 1/3th will have to be deducted towards the personal expenses of the deceased. The Tribunal has assessed the notional monthly income of the deceased as Rs.27,131/-. After giving due consideration to the year of the accident and the avocation of the deceased as conductor, the assessment is a correct assessment.

8. In addition to the pecuniary loss sustained by the Appellants, the Tribunal has awarded only a compensation of Rs.15,000/- under the head of love and affection to the appellants 2 and 3 being the child and mother of the deceased, which is very meagre. In the considered view of this Court, it would be appropriate to award a compensation of Rs.40,000/- each to the



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appellants 2 and 3 towards love and affection. The Tribunal has erroneously failed to award any compensation towards loss of estate which the appellants are legally entitled to as per the settled practice. Accordingly, a sum of Rs.15,000/- is awarded as compensation to the Appellants towards loss of estate.

9. Insofar as the quantum of compensation awarded by the Tribunal under the heads loss of consortium, medical expenses, transportation and funeral expenses are concerned, the same is a just compensation in the considered view of this Court.

10. For the forgoing reasons, the compensation awarded by the Tribunal is modified as follows:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Award Amount by this Court (Rs.)</i>
Pecuniary Loss of Income (27131-1/3=18087 x 12 x 15	32,55,660/-	32,55,660/-



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Award Amount by this Court (Rs.)</i>
Loss of Love and Affection to 2nd and 3rd claimants	15,000/-	80,000/-
Loss of Consortium to wife	40,000/-	40,000/-
Transport charges and Funeral Expenses	15,000/-	15,000 /-
Medical Expenses	57,364/-	57,364/-
Loss of Estate	Nil	15,000/-
Total	33,83,024/-	34,63,024/- rounded off to Rs.34,63,000/-

11. In the result,

(i) This appeal is partly allowed and the compensation awarded by the Tribunal is enhanced from 33,83,024/- to Rs.34,63,000/- with interest at the rate of 7.5% p.a. from the date of claim petition till the date of realisation.

(ii) The second respondent Insurance company is directed to deposit the modified award amount i.e, Rs.34,63,000/- along with interest at the rate of 7.5% per annum and costs, after deducting the amount already deposited, if any, to the credit of MCOP.No.89 of 2016 within a period of



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six weeks from the date of receipt of a copy of this Judgment.

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(iii) On such deposit being made, the Tribunal is directed to transfer the respective shares of award amount as per the ratio apportioned by the Tribunal to the bank accounts of the Appellants 1 and 3 along with accrued interest through RTGS within a period of two weeks thereafter.

(iv) Insofar as the minor Appellant no.2 is concerned, the Tribunal is directed to deposit the share of her award amount bearing fixed deposit in any one of the Nationalised Bank till she attains majority and the first Appellant/mother of the minor is permitted to withdraw the interest accrued once in six months for the welfare of the minors. No costs.

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Index: Yes/No

Speaking/Non-speaking Order: Yes/No

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To

1.The Motor Accident Claims Tribunal/
I Additional District Judge,Cuddalore.

2.The Section Officer
V.R.Section, High Court of Madras.

A.A.NAKKIRAN, J.

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