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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 12.12.2023

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THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

**C.M.A. NO. 1311 of 2020
CROSS OBJECTION NO. 32 of 2021
AND C.M.P. NO. 9427 OF 2020**

C.M.A. NO. 1311 of 2020

The Divisional Manager,
M/s.Royal Sundaram General Insurance Company Ltd.,
Sona Tower, 2nd Floor, Shop No.40,
91/32, Palani Road, Dindugal District.

.. Appellant

- Vs -

1. Gowri
2. Minor Sagash S/o.Muruganandam
(Minor represented by Nex friend Mother Gowri)
3. Muniyasamy S/o.Periyakaruppan
4. Valimayil W/o.Muniyasamy

5. M.Chinnasamy

.. Respondents

CROSS OBJECTION NO. 32 OF 2021

1. Gowri
2. Minor Sagash S/o.Muruganandam
(Minor represented by Nex friend Mother Gowri)
3. Muniyasamy S/o.Periyakaruppan
4. Valimayil W/o.Muniyasamy

.. Cross Objectors

- Vs -

1. The Divisional Manager,



M/s.Royal Sundaram General Insurance Company Ltd.,
Sona Tower, 2nd Floor, Shop No.40,
91/32, Palani Road, Dindugal District.

2. M.Chinnasamy

... Respondents

Civil Miscellaneous Appeal filed u/s 173 of the Motor Vehicles Act against the judgment and decree dated 06.01.2020 passed by the Motor Accident Claims Tribunal (Additional District Judge), Namakkal, made in MCOP No.877 of 2016.

Cross Objection filed under Order 41 Rule 22 of the Code of Civil Procedure to enhance the award amount in the decree and judgment dated 06.01.2020 passed by the Motor Accident Claims Tribunal (Additional District Judge), Namakkal, made in MCOP No.877 of 2016.

For Appellant : Mr. E.Rajadurai in CMA 1311/2020
Mr.Ma.P.Thangavel in X. Obj. 32 of 2021

For Respondents : Mr.Ma.P.Thangavel in in CMA 1311/2020
For RR1 to 4
Mr. E.Rajadurai in X. Obj. 32 of 2021

COMMON JUDGMENT

While the appeal has been filed by the insurance company challenging the quantum of compensation awarded by the Tribunal as excessive, the cross objection has been filed by the claimants challenging the inadequate



compensation awarded by the Tribunal.

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2. The deceased, aged 35 years, was working as a driver, earning a sum of Rs.20,000/= per month, died in the accident that happened on 07.07.2015. The legal heirs of the deceased, viz., the wife, minor Son, and parents have filed claim petition claiming compensation in a sum of Rs.25,00,000/=.

3. The Tribunal, considering the oral and documentary evidence, awarded a sum of Rs.17,71,000/= under various heads.

4. The quantum of compensation awarded by the Tribunal is under challenge by the Insurance company as well as by the claimants.

5. Learned counsel appearing for the appellant/insurance company submits that the accident had happened only due to the rash and negligent driving of the deceased. The lorry was properly parked in the left side of mud portion and caused the accident which is proved through rough sketch, which was marked as Ex.R3. The learned counsel further submitted that the



quantum of compensation awarded by the Tribunal is excessive. The Tribunal erred in fixing monthly income of the deceased at Rs.9,450/- in absence of any evidence. Hence, the learned counsel prays that this Court may interfere with the award and allow this petition.

6. Per contra, learned counsel appearing for the claimants/cross objectors contend that the deceased was earning a sum of Rs.20,000/- per month and this Court, without considering the cost of living, awarded a sum of Rs.9450/-. It is further contended that the Tribunal has awarded only Rs.40,000/- towards loss of consortium, this Court warrants interfere with the same. The minor son and parents of the deceases are entitled for getting loss of love and affection.

7. This Court gave its anxious consideration to the arguments advanced by the learned counsel appearing on either side and also perused the oral and documentary evidence and the judgment passed by the Tribunal.

8. A careful perusal of the documents available on record as also the order passed by the Tribunal, the fact remains that the deceased was working



as a driver. No documentary evidence is available on record to show the monthly income of the deceased. It has been categorically laid down by the Supreme Court in a catena of decisions, the Tribunal has fixed a sum of Rs.9,450/- per month, which does not warrant any interference. Likewise, insofar as the compensation awarded under the head Loss of Expectation of life at Rs.40,000/= is concerned, the same has to be modified as Rs.1,60,000/- (4 persons X Rs.40,000/-).

9. The compensation awarded by the Tribunal at Rs.17,71,000/- is modified and a sum of Rs.18,91,000/- is awarded as compensation under the following heads :-

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Loss of income	17,01,000/-	17,01,000/-
Loss of Estate	15,000/-	15,000/-
Funeral Expenses	15,000/-	15,000/-
Loss of Consortium	40,000/-	
Loss of love and affection	(4XRs.40,000/-)	1,60,000/-
Total	17,71,000/-	18,91,000/-

12. In the result, the civil miscellaneous appeal is dismissed in the



terms and the cross objection is allowed. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

13. The appellant/insurance company is directed to deposit the modified award amount as quantified by this Court above along with interest at 7.5% p.a., from the date of claim petition till date of deposit, less the amount, if any, already deposited, to the credit of the claim petition within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer the amount as per the permissible apportionment to the bank account of the major claimants through RTGS within a period of two weeks thereafter. Insofar as the share of the minor claimant is concerned, the same shall be dealt with in the manner as ordered by the Tribunal.

12.12.2023

Index : Yes / No

Internet : Yes / No

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7

To

The Motor Accident Claims Tribunal
(Additional District Judge), Namakkal,



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8

M.DHANDAPANI, J.

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