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C.M.A.No.3366 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.M.A.No.3366 of 2021
and
C.M.P.No.19746 of 2021

1.A.Natarajan

2.N.Rani

...Appellants

Vs.

1.S.Sethuraj

2.M/s.The Oriental Insurance Company Ltd.,
R.P.Complex, 2nd Floor, Kamarajanar Road,
Attur - 636 102.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 05.08.2017 made in MCOP.No.1341 of 2014 on the file of the MACT / Principal District Court at Namakkal.

For Appellants : Mr.Ma.P.Thangavel

For Respondents : Mr.M.J.Vijayaraghavan for R2

R1 - Exparte before the Tribunal



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J U D G M E N T

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

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The claimants, who are the parents of one Gowri, who died in a motor accident that took place on 25.05.2014 near Masinaickanpatty Bridge at Ammapettai in Ulunthurpettai by-pass road are the appellants. Aggrieved by the award of a sum of Rs.7,24,897/- by the Tribunal for the death of their daughter, who was the M.Sc.(Chemistry) graduate, they have filed this appeal seeking enhancement.

2.At trial, the 1st claimant was examined as P.W.1 and one Yuvaraj, an eye-witness was examined as P.W.2. Exs. P1 to P10 were marked on the side of the claimants. One Sivasubramaniam, Senior Assistant of the Oriental Insurance Company Limited was examined as R.W.1. Ex. R1 was marked on the side of the Insurance Company.

3.On appreciation of the evidence on record, the Tribunal had taken the monthly notional income at Rs.6,000/-, deducted 50% towards personal expenses, took the monthly contribution at Rs.3,000/- and by applying the multiplier of 18 arrived at the loss of dependency at Rs.6,48,000/-. It has awarded following amounts towards other heads:-



Description	Amount
For the loss of estate	Rs.2,000/-
For love and affection	Rs.5,000/-
For funeral expenses	Rs.5,000/-
For transportation expenses	Rs.2,000/-
For Medical Expenses	Rs.62,897/-

Thus, the Tribunal arrived at the total compensation at Rs.7,24,897/-.

4.We have heard Mr.Ma.P.Thangavel, learned counsel for the appellants and Mr.M.J.Vijayaraghavan, learned counsel for the Insurance Company.

5.Mr.Ma.P.Thangavel, learned counsel for the appellants would vehemently contend that fixation of Rs.6,000/- as notional income is too low. He would also point out that the award on the other heads also are less than the amount prescribed by the Hon'ble Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi and others* reported in *(2017) 16 SCC 680*.

6.Mr.M.J.Vijayaraghavan, learned counsel for the Insurance Company would submit that fixation of Rs.6,000/- is justified in the light of the fact that the deceased was unemployed and there was no proof to



show that she was having income. We have considered the rival submissions.

7. We find that the fixation of income at Rs.6,000/- for an accident that had taken place in 2014 is unacceptable. It is common knowledge that Class-IV servants in the Government service were earning more than Rs.10,000/- at the relevant point of time. It is admitted that the deceased is a Post Graduate in Chemistry. For such qualification, fixation of monthly notional income at Rs.6,000/- is too low. We are therefore, of the considered opinion, that a sum of Rs.12,000/- would be reasonable in the prevailing circumstances. If we adopt an increase of 40% towards future prospects, the monthly income would be Rs.16,800/-, the multiplier applicable would be 18 and therefore, the total loss of income would be $\text{Rs.16,800/-} \times 12 \times 18 \times 1/2 = \text{Rs.18,14,400/-}$. The award of the Tribunal on the other heads is also too low. Therefore, the same are also enhanced as follows:-

<i>Description</i>	<i>Amount</i>
Loss of Estate	Rs.15,000/-
Loss of love and affection (Rs.40,000 x 2)	Rs.80,000/-
Funeral expenses	Rs.15,000/-
Transportation	Rs.5,000/-
Medical Bills	Rs.62,897/-



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Thus, the total compensation would be Rs.19,92,297/-, which is rounded off to Rs.19,92,000/-.

8.This Civil Miscellaneous Appeal is *partly allowed*. The compensation is enhanced to Rs.19,92,000/- with 7.5% interest from the date of petition till date of payment. It is seen that there was a delay of 780 days in filing the appeal. It is made clear that the claimants will not be entitled to interest for the said delay period. The compensation is apportioned as follows:-

i) the mother of the deceased will get Rs.12,00,000/-

ii) the father will get the remaining amount of Rs.7,92,000/-.

The Insurance Company will deposit the compensation within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimants are entitled to withdraw the same. The claimants will pay the Court fee payable on the enhanced compensation. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M., J.) (N.S., J.)
14.12.2023

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Index: No

Speaking

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R.SUBRAMANIAN, J.
and
N.SENTHILKUMAR, J.

KKN

To:-

The Motor Accident Claims Tribunal,
Principal District Court,
Namakkal.

C.M.A.No.3366 of 2021
and
C.M.P.No.19746 of 2021

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