



CMA No. 1774 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 1774 of 2023

1. Parvathi

2. Umamagheswari

3. Udhayalakshmi

4. Bhuvaneshwari

5. Minor Girivaran

(Minor represented by his next friend mother
Parvathi, 1st appellant)

6. Ramaammal

... Appellants

Versus

1. Ponmani

2. United India Insurance Co. Ltd.,
Branch Office (171081),
Door No. E11, Sidco Industrial Estate,
Near Bye Pass Royakottai Fly Over,
Krishnagiri.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the Judgment and Decree dated
12.04.2022 made in M.C.O.P. No. 85 of 2020 on the file of the Motor



CMA No. 1774 of 2023

Accidents Claims Tribunal, Subordinate Judge at Palacode.

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For Appellants : Mr. Amar D. Pandiya
for M/s. G.Nareshkumar

For Respondents : Mr. D.Bhaskaran for R2

R1 - exparte

J U D G M E N T

The appeal has been filed by the appellants challenging the quantum of compensation awarded by the Tribunal in M.C.O.P. 85 of 2020 dated 12.04.2022.

2.The appellants had filed the claim petition seeking compensation on the ground that the deceased succumbed to injuries suffered in a accident caused by the vehicle owned by the first respondent.

3. The Tribunal after considering the pleadings and evidence on record, held that the accident was due to the rash and negligent act of the driver of the offending vehicle belonging to the first respondent and directed the second respondent herein as the insurer of the offending



CMA No. 1774 of 2023

vehicle to pay a compensation of Rs. 10,10,360/- to the appellants.

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4. Aggrieved by the fact that the compensation awarded by the Tribunal is meagre, the appellants have filed the instant appeal.

5. The learned counsel for the appellants submitted that the notional income fixed by the Tribunal and the award under the head loss of love and affection are meagre and hence, prayed for enhancement.

6. Since the first respondent remained ex parte before the Tribunal, the learned counsel for the appellants sought permission of this Court to dispense with the notice to him and has made an endorsement to that effect. Hence, notice to the first respondent is dispensed with.

7. The learned counsel for the second respondent, per contra, submitted that the Tribunal had awarded just and reasonable compensation and prayed for dismissal of the appeal.

8. The only question that arises for consideration in the instant



CMA No. 1774 of 2023

appeal is whether the compensation awarded by the Tribunal is just and reasonable?

9. It is seen that the PW1 was examined to show that the deceased was in the business of buying and selling of old/second hand vehicles. However, the appellants had not produced any document to prove the income. The Tribunal had taken the monthly income as Rs. 9,000. The accident is of the year 2020. Considering the age, avocation, year of the accident, the number of dependants and the cost inflation index, this Court is of the view that it would be just and reasonable to fix the notional income as Rs. 14,000/- per month. Since the deceased was aged 58 years at the time of the accident, the appellants are entitled to 10% future prospects and the multiplier applicable is 9. Therefore, the loss of income would be Rs. 14,000/- + Rs. 1,400/- (10% of Rs. 14,000/-) = Rs. 15,400/- x 12 x 9 x 4/5 (1/5th deducted towards personal expenses) = Rs. 13,30,560/-. The second to fifth appellants are entitled to Rs. 40,000/- each under the head loss of love and affection and therefore, the same is enhanced to Rs. 1,60,000/- The award under the other heads are just and the same are confirmed. Thus, the award of the Tribunal is modified as



CMA No. 1774 of 2023

follows;

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	8,55,360	13,30,560	Enhanced
2.	Transportation	5,000	5,000	Confirmed
3.	Funeral expenses	15,000	15,000	Confirmed
4.	Loss of estate	15,000	15,000	Confirmed
5.	Loss of spousal consortium	40,000	40,000	Confirmed
6.	Loss of filial consortium	40,000	40,000	Confirmed
7.	Loss of love and affection	40,000	1,60,000	Enhanced
	Total	10,10,360/-	16,05,560/-	Enhanced by Rs. 5,95,200/-

10. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,10,360/- is hereby enhanced to Rs.16,05,560/- together with interest at 7.5% per annum (excluding the default period if any) from the date of petition till the date of deposit. The third respondent is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit, the first appellant is permitted to withdraw



CMA No. 1774 of 2023

Rs. 5,00,000/-, the sixth appellant is entitled to Rs. 1,00,000/- and the second to fifth appellants are entitled to withdraw Rs. 2,51,390/- each along with proportionate interest and costs, less the amount if any, already withdrawn. The share of the minor fifth appellant is directed to be deposited in the interest bearing fixed deposit in any of the Nationalized Banks till he attains majority and the first appellant is permitted to withdraw the accrued interest once in six months. The appellants are directed to pay the necessary court fee if any on the enhanced award amount. No costs.

01.09.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Motor Accidents Claims Tribunal, Special District Court, MCOP Tribunal, Salem.
2. The Section Officer,
VR Section,
Madras High Court,
Chennai – 600 104.



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CMA No. 1774 of 2023

SUNDER MOHAN, J

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C.M.A. No. 1774 of 2023

Dated: 01.09.2023