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CMA No. 2055 / 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 2055 of 2022

1.S.Mohana

2.S.Rasigasri Minor

3.S.Nithish Minor

4.M.Devaki

5.M.Mani

(Appellants 2 and 3 are represented by their
mother and next friend S.Mohana)

... Appellants

Versus

1.M/s.Uma Blue Metals,
No.2/2, Vettaikaran Kuppam Village,
Kottaikadu, Kancheepuram District.

2.Reliance General Insurance Company Limited,
Reliance House, 6th Floor, No.6,
Haddows Road,
Nungambakkam, Chennai 600 034.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 seeking to allow this appeal and to set aside the Judgment and Decree dated 21.12.2021 passed in M.C.O.P. No. 1681 of 2020 on the file of Motor Accident Claims Tribunal, Chennai, Chief Judge, Court of Small Causes, Chennai and enhance the award amount.



CMA No. 2055 / 2022

WEB COPY

For Appellants : Mr. K. Balaji.

For Respondents : Mr. C. Bhuvaneswari for R2.

No appearance for R1.

J U D G M E N T

The appeal has been filed by the claimants challenging the quantum of compensation awarded by the Tribunal in M.C.O.P. No. 1681 of 2020 dated 21.12.2021.

2.The appellants had filed a claim petition before the Tribunal stating that on 26.02.2020 at about 14.45 hours, when the deceased was riding an auto bearing Registration No. TN-19-AF-0531 at Pavvunjar to Koovathur Road, a lorry bearing Registration No. TN-19-T-1496 was driven by its driver in a rash and negligent manner and dashed the auto as a result of which the deceased sustained fatal injuries and thus they are entitled for compensation.

3.The second respondent filed a counter denying all the averments made in the claim petition and stated that in any case, the claim was excessive.



CMA No. 2055 / 2022

WEB COPY

4.The first respondent remained ex-parte before the tribunal.

5.The appellants examined two witnesses on their side and marked Ex.P.1 to Ex.P.17. No witness was examined on the side of the second respondent and no document was marked.

6.The Tribunal after considering the oral and documentary evidence awarded a compensation of Rs.22,46,000/- to the appellants to be paid by the respondents. Aggrieved by the said quantum of compensation, the appellants had preferred the instant appeal.

7.The learned counsel for the appellants submitted that the compensation awarded by the Tribunal has to be enhanced. The Tribunal had fixed a meagre notional income of Rs.10,000/- for the accident which took place in the year 2020. It is submitted that the deceased was working as an auto driver and was earning more than Rs.30,000/- per month and hence, the notional income has to be enhanced. The learned counsel further submitted that the award under the other heads are just and reasonable.



CMA No. 2055 / 2022

8. Though notice has been served, none has entered appearance on behalf of the first respondent.

9. The learned counsel for the second respondent submitted that the Tribunal had awarded just and reasonable compensation and hence, the same need not be interfered with. The appellants have not established the income of the deceased and the fact that he was an auto driver. Hence, the learned counsel prayed that the appeal may be dismissed.

10. In the instant appeal, the short question that is involved is whether the quantum of compensation awarded by the Tribunal is just and reasonable. It is the case of the appellants that the deceased was an auto driver and was earning more than Rs.30,000/- per month. However the appellants have not produced any proof to establish the same. But the evidence of PW1 shows that the deceased was an auto driver. Considering the cost inflation index, the fact that the deceased was an auto driver at the time of the accident, that the deceased has four



CMA No. 2055 / 2022

dependents and the accident is of the year 2020, this Court is of the view

that the notional income of the deceased can be fixed at Rs.15,000/-. The

deceased was aged 35 and 40% increase towards future prospects has to

be taken. The multiplier applicable is 16. Since there were four

dependents, 1/4th of his income has to be deducted towards his personal

expenses. The award of compensation under the other heads are just and

reasonable. Therefore, the award of compensation under the head Loss

of income is calculated as follows; Rs.15,000/- + 40% = Rs.21,000/- X

12 X 16 X 3/4 = Rs.30,24,000/-. Thus, the compensation awarded by the

Tribunal is modified as follows;

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	20,16,000	30,24,000	Enhanced
2.	Loss of Estate	15,000	15,000	Confirmed
3.	Loss of Consortium	2,00,000	2,00,000	Confirmed
4.	Funeral Expenses	15,000	15,000	Confirmed
	Total	22,46,000	32,54,000	Enhanced by Rs.10,08,000/-

11. With the above modification, this Civil Miscellaneous Appeal

is partly allowed and the compensation awarded by the Tribunal at



CMA No. 2055 / 2022

Rs.22,46,000/- is hereby enhanced to Rs.32,54,000/- 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 second respondent /

Insurance Company is directed to deposit the enhanced 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 entitled to a sum of Rs.10,54,000/-, the second and third

appellants are entitled to a sum of Rs.9,00,000/- each and the fourth and

fifth appellants are entitled to a sum of Rs.2,00,000/- each. The shares of

the minors viz., Rs.18,00,000/- are directed to be deposited in the interest

bearing Fixed Deposit in any nationalized Bank till they attain majority

and the first appellant, mother of the minors is permitted to withdraw the

interest once in every six months. The appellants 1, 4 and 5 are

permitted to withdraw their respective shares along with proportionate

interest and costs, less the amount if any, already withdrawn as per the

apportionment made by this Court. The appellants are directed to pay the

necessary Court Fee if any on the enhanced award amount. No costs.



CMA No. 2055 / 2022

20.07.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The Chief Judge,
Motor Accident Claims Tribunal,
Court of Small Causes,
Chennai.



CMA No. 2055 / 2022

SUNDER MOHAN, J

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C.M.A. No. 2055 of 2022

Dated: 20.07.2023