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C.M.A.No.2124 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

C.M.A.No.2124 of 2023

Jayanthi

... Appellant

Versus

1.India Trans,
having office at
New No.156, Old No.254,
Thambu Chetty Street,
Chennai-600 001.

(R1 remained *ex-parte* before the Tribunal)

2.The New India Assurance Company Limited,
Divisional Office – II,
Regina Mansion,
No.46, Moore Street,
Chennai – 600 002.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 02.08.2022 and made in M.A.C.T.O.P.No.784 of 2017 on the file of the Motor Accident Claims Tribunal, IV Additional District and Sessions Judge, Thiruvallur at Ponneri.



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For Appellant : Mr.A.G.F.Terry Chella Raja

WEB COPY For R2 : Ms.A.Salomi

JUDGMENT

The appellant/claimant preferred the above appeal seeking enhancement of compensation.

2.The appellant filed the claim petition stating that on 29.05.2016 at about 10:20 pm., while the deceased was riding his Scooter, the offending vehicle viz., the lorry, insured with the 2nd respondent herein came in a rash and negligent manner, dashed the vehicle ridden by the deceased; that as a result of which, the deceased sustained fatal injuries and thus, the appellant was entitled for compensation.

3.The 1st respondent-owner of the offending vehicle remained *ex-parte* before the Tribunal.

4.The 2nd respondent/Insurance Company resisted the claim petition stating that the driver of the lorry did not possess valid driving license; that in any case, the accident took place only due to the negligence of the deceased; and that in any event, the compensation



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claimed by the appellant was excessive and prayed for dismissal of the claim petition.

5.Before the Tribunal, the appellant examined PW.1 and PW.2 and marked Ex.P1 to Ex.P13. The 2nd respondent had neither examined any witness nor marked any document.

6.The Tribunal after taking into consideration the evidence on record, held that the accident took place only due to the negligence act of the driver of the lorry, insured with the 2nd respondent and directed the 2nd respondent to pay a sum of Rs.10,19,480/-, as compensation to the appellant.

7.The learned counsel for the appellant submitted that though the appellant had established the fact that the deceased was working as Welder and earned a sum of Rs.25,000/- per month, the Tribunal had fixed monthly notional income of Rs.6,600/-, which is meagre and therefore, prayed for enhancement of compensation.



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mother of the deceased was dependant of the deceased, this Court is of the view that, it would be just and reasonable to fix the notional income at Rs.13,000/- per month. Further, the appellant is entitled for 40% enhancement towards future prospects and the correct multiplier applicable is 17. After deducting 50% towards personal expenses, the award of compensation under the head loss of income or dependency has to be as follows:

$$\text{Rs.18,200/- (Rs.13,000 + 40\%) X 12 X 17 X 1/2 = Rs.18,56,000/-}.$$

The amount awarded by the Tribunal under other heads is just and reasonable and the same are confirmed. 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 dependency	9,42,480	18,56,000	Enhanced
2.	Loss of Estate	16,500	16,500	Confirmed
3.	Loss of Consortium	44,000	44,000	Confirmed
4.	Funeral Expenses	16,500	16,500	Confirmed
	Total	10,19,480	19,33,000	Enhanced by Rs.9,13,520/-



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12. With the above modification, this Civil Miscellaneous Appeal

is partly allowed and the compensation awarded by the Tribunal at Rs.10,19,480/- is hereby enhanced to Rs.19,33,000/- 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 2nd respondent/Insurance Company 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 receipt of a copy of this Judgment. On such deposit, the appellant is permitted to withdraw the entire award amount along with interest and costs, less the amount if any, already withdrawn. The appellant is directed to pay the necessary Court fee, if any, on the enhanced award amount. No costs.

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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To:

1.The IV Additional District and Sessions Judge,
The Motor Accident Claims Tribunal,
Thiruvallur at Ponneri.

2.The Section Officer,
VR Section,
High Court, Madras.

SUNDER MOHAN, J.



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