



WEB COPY



C.M.A.No.767 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2023

CORAM:

MR.JUSTICE N.SESHASAYEE

C.M.A.No.767 of 2022

1.Arjunan
2.Rani
3.Chandrakala
4.Minor Lakshmi
(Minor is rep. by his N.F/Father 1st appellant)
5.Beeamannan
6.Mariyamma

... Appellants

Vs.

1.K.Ashok

2.The Divisional Manager
Oriental Insurance Company Ltd.
Divisional Office, Ground Floor
Arunagiri Complex
No.25-C, Bypass Road
Hosur 635109

... Respondents

PRAYER:This Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 03.09.2019 made in M.C.O.P.No.716 of 2018 on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri.



WEB COPY



C.M.A.No.767 of 2022

For appellants : Mr.S.P.Yuaraj

For respondents : Mr.J.Pradeep - R1
Mr.J.Chandran - R2

JUDGMENT

In a fatal accident involving a motorcycle and a cab, the rider of the motorcycle was killed. The accident took place on 06.07.2014. The victim of the accident was barely 21 years old and was running a tea shop and maintained and supported a family of six, which included his parents, grand parents and siblings. Claiming compensation, these claimants approached the Tribunal and it has determined the compensation payable at Rs.16,07,000/-. In arriving at the compensation payable on the head of loss of dependency, the Tribunal had reckoned the monthly income of the victim at Rs.10,000/-, to which it added another 40% towards future prospects and applied 18 as a multiplier and reduced it by 50% to arrive at a sum of Rs.15,12,000/-. The break up of the compensation payable under different heads is as below:



C.M.A.No.767 of 2022

<i>Sl.No.</i>	<i>Heads under which compensation awarded</i>	<i>Amount</i>
1	Loss of Dependency	Rs.15,12,000/-
2	Loss of consortium	Rs. 20,000/-
3	Love and Estate	Rs. 20,000/-
4	Funeral Expenses	Rs. 15,000/-
5	Towards Love and Affection	Rs. 40,000/-
	Total	Rs.16,07,000/-

2. Aggrieved by the perceived inadequacy of the compensation, the claimants are now before the Court.

3. Heard both sides.

4. The learned counsel for the appellants submitted that the victim was running a tea stall and it is proved by Ex.P.6 / receipt and that the Tribunal ought to have fixed the notional income more realistically.

5. Taking into account the facts of the case and the nature of avocation of the victim, this Court deems it appropriate to fix Rs.12,000/- as notional monthly income of the victim, to which it adds another 40% towards future



prospects. Applying 18 as a multiplier and reducing it by 50%, the net value of loss of dependency is assessed at Rs.18,14,400/-. The other non pecuniary conventional heads of compensation, certain modifications are made. The revised compensation reads as below:

<i>Sl. No.</i>	<i>Amount granted by the Tribunal</i>	<i>Amount modified by this Court</i>	<i>Final amount granted by this Court</i>
1.	Loss of dependency Rs.15,12,000/-	Loss of dependency Rs.18,14,400/-	Rs.18,14,400/-
2	Loss of Consortium = Rs.20,000/- Towards Love and Affection = Rs.40,000/-	Loss of Consortium = Rs.20,000/- Towards Love and Affection = Rs.2,40,000/- (Rs.40,000/- x 6)	Rs. 20,000/- Rs. 2,40,000/-
3	Loss of Estate = Rs.20,000/-	-	Rs. 20,000/-
4	Funeral Expenses = Rs.15,000/-	-	Rs. 15,000/-
Total	Rs.16,07,000/-	<u>Enhanced to Rs.5,02,400/-</u>	Rs.21,09,400/-

6.In conclusion, this appeal is allowed.

(i) Compensation is enhanced from Rs.16,07,000/- to Rs.21,09,400/-.

(ii)The Insurance Company is now required to deposit the sum herein awarded with interest at 7.5%, less any amount already deposited by it.



C.M.A.No.767 of 2022

(iii) No interest is payable for 79 days in terms of the order passed in

C.M.P.No.12168 of 2021 in C.M.A.SR.No.65473 of 2021.

(iv) The sum awarded is now required to be deposited to the credit of M.C.O.P.No.716 of 2018, on the file of Motor Accidents Claims Tribunal (Special District Court), Krishnagiri, within a period of six (6) weeks from the date of receipt of a copy of this order.

(v) On such deposit, the claimants are entitled to withdraw the entire compensation along with interest as per existing rules on filing necessary application before the Tribunal after the payment of court fee for the enhanced compensation, if any.

(vi) The Registry is directed to draft the decree only after the receipt of enhanced court fee.

(vii) The share of the minor, if any, shall be invested in a Nationalized Bank in reinvestment scheme till she attains majority. It is made clear that



WEB COPY



C.M.A.No.767 of 2022

N.SESHASAYEE, J.

kas

the interest accrued on such deposit shall be withdrawn by the 1st claimant /
father of the minor once in three months.

(viii) There is no order as to costs in this appeal.

30.11.2023

kas

Index : Yes / No
Neutral Citation

To.

The Motor Accidents Claims Tribunal
Special District Court
Krishnagiri



WEB COPY



C.M.A.No.767 of 2022

C.M.A.No.767 of 2022