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C.M.A.No.1475 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2023

CORAM : JUSTICE N.SESHASAYEE

C.M.A.No.1475 of 2022

1.Tamizharasi
2.Monish

... Appellants / Petitioners

Vs

1.Praveenraja
2.The United India Insurance Co. Ltd.
D.O.171800, No.255, TNA Complex
Salem Road, Tiruchengode.

..... Respondents / Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, praying to enhance the award amount in the order dated 01.12.2021 made in M.A.C.T.O.P.No.918 of 2020, on the file of Special District Court / Motor Vehicle Accident Claims Tribunal, Salem.

For Appellants : Mr.C.Paraneedharan

For Respondents : Mr.J.Chandran for R2
R1 - No appearance



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JUDGMENT

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In a fatal accident in which a certain Natesan died, his estate preferred a claim for Rs.25.0 lakhs in MCOP.No.918 of 2020 on the file of MACT (Special District Court for MCOP cases), Salem. The Tribunal had awarded Rs.23,67,203/- towards compensation, and fastened the liability jointly and severally on both the respondents, the owner of the offending vehicle and its insurance company. Aggrieved by the perceived inadequacy of the compensation awarded by the Tribunal, the claimants have preferred this appeal.

2.1 The facts of the case are that on 29.05.2020, at around 8.00 p.m., while Natesan was riding his motorcycle, he was knocked to his fatal end due to the injuries caused by a collision of another motorcycle driven by the first respondent. Indeed, Natesan was initially admitted in KMCH, Erode. Later he was shifted to KMCH, Coimbatore, where he died on 02.06.2020. During this period, his family had spent Rs.5,62,396/- towards medical expenses.

2.2 Natesan was 62 years at that relevant time, and according to the claimants, he was earning around Rs.60,000/- per month, which comprises of his agricultural income from poultry and power loom. However, during trial,



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they produced Ext.P15 to Ext.P17, based on which, the annual income of the deceased was reckoned at Rs.3,68,530/-, and the Tribunal had passed an award for Rs.23,67,203/-. The break-up is as below :

Sl. No.	Heads of Compensation	Amount awarded by Tribunal (Rs.)
1.	Loss of income	17,19,807.00
2.	Loss of love and affection (Rs.20,000 x2)	40,000.00
3.	Loss of consortium	20,000.00
4.	Medical Expenses	5,62,396.00
5.	Funeral Expenses	25,000.00
Total :		23,67,203.00

3. Heard both sides. The learned counsel for the appellant made a valiant attempt to inform this Court that the compensation awarded on multiple heads is meagre. He however does not explain how.

4. However on careful perusal of the various heads of compensation, this Court finds that the Tribunal should have awarded Rs.44,000/- for loss of consortium for the first respondent, and another Rs.44,000/- for loss of love and affection for the second respondent. Natesan had passed away on the fifth day of the accident. This implies that his estate is entitle to receive a reasonable compensation for pain and suffering. This Court determines the same at Rs.50,000/- The compensation is accordingly reworked, and it is



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provided in the table below :

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<i>Sl. No.</i>	<i>Heads of Compensation</i>	<i>Revised Award Amount (Rs.)</i>	<i>Award of the Tribunal Changed / Unchanged / Added</i>
1.	Loss of income	17,19,807.00	Unchanged
2.	Loss of love and affection	44,000.00	Changed
3.	Loss of consortium	44,000.00	Changed
4.	Medical Expenses	5,62,396.00	Unchanged
5.	Funeral Expenses	25,000.00	Unchanged
6.	Pain and Suffering	50,000.00	Added
Total :		24,45,203.00	Changed

5.To conclude, this Court partly allows this appeal and the compensation award payable is enhanced from **Rs.23,67,203/-** to **Rs.24,45,203/-**. The respondents are directed to deposit the enhanced award amount now determined by this Court, within a period of six (6) weeks from the date of receipt of a copy of this order, less any amount if already paid. The enhanced portion of the compensation will be apportioned to the claimants in the same ratio in which the Tribunal has distributed the award sum. The appellants are permitted to withdraw the award amount, now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. The appellants are 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 orders

To:

1.The Special District Judge
MCOP Tribunal
Salem.

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



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N.SESHASAYEE.J.,

ds

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