IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.1744 of 2022

1.Radha
2.Jagatheeshkumar
3.Ramya
4.Muthayee @ Chinna Pappa ... Appellants

-Vs-

1.Mani
2.The New India Assurance Company Ltd,
Rep. by its Manager, Post Box No.47,
Kumaran Shopping Complex, Kumaran Road,
Tiruppur – 641 601. ...Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the M.V.Act, 1988, against the award and Judgment made in M.C.O.P.No.13 of 2013 on the file of the Motor Accident Claims Tribunal cum 4th Additional District Judge, Erode District, Bhavani dated 27.10.2015.

For Appellants	:	Mr.C.Kulanthaivel
For R1	:	notice D/w
For R2	:	Mrs.S.R.Sumathy

JUDGMENT

In a fatal accident that took place on 23.11.2012, one Anandan died when the two wheeler that he was riding was hit by a lorry belonging to the first respondent and insured with the second respondent.

2. Anandan was 44 years old when he died. He was working as a Revenue Inspector in the Civil Supplies Department, and as per Ext.P7 series, he was earning Rs.21,345/- p.m as income. In a petition filed by his dependents seeking compensation, the Tribunal has passed an award for Rs.24,73,576/-, and the break-up is as below :

Sl. No.	Heads of Compensation	Amount awarded by Tribunal (Rs.)
1.	Loss of income	21,51,576.00
2.	Loss of love and affection	2,00,000.00
3.	Loss of consortium	1,00,000.00
4.	Transportation Charges	10,000.00
5.	Funeral Expenses	10,000.00
6.	Damages to clothings	2,000.00
Total :		**24,73,576.00**

The principal head of compensation is loss of dependency in computing which the Tribunal had reckoned the salary of the victim at Rs.21,345/-, and applied 14 as multiplier, after deducting 10% towards income tax.

3. Aggrieved by the perceived inadequacy of the sum awarded, the claimants are before this court. They challenge the award passed by the tribunal principally on three grounds :

(a) that the Tribunal did not include the future prospects, which in terms of ***National Insurance Company Ltd., Vs. Pranay Sethi and others*** [2017 2 TANMAC 609], for salary class must be 30%; and

(b) that it deducted $1/3^{rd}$ towards personal expenses of the victim, when there are four dependents, which is contrary to ***Sarala Varma*** prescription of $1/4^{th}$.

(c) The tribunal has deducted 10% flatly towards income tax, whereas for the financial year 2012-2013, during which period Anandan had died, he was entitled to an exemption of Rs.1,80,000/-, and the income tax payable on the taxable income above Rs.1,80,000/- and upto Rs.5,00,000 was 10%.

4.The learned counsel for the respondent however, submitted that the award passed by the Tribunal is in order.

5. This Court notices that the Tribunal has not reckoned the professional tax payable by the victim. This is roughly fixed at Rs.1,000/-. The monthly income of the victim is now rounded at Rs.21,350/- and after deducting Rs.1,000/- towards professional tax, his annual income is Rs.2,55,200/- (Rs.21,350x12 = Rs.2,56,200/- minus Rs.1,000/-). His net taxable income is Rs.75,200/- (Rs.2,55,200/- (-) Rs.1,80,000/- = Rs.75,200/-). 10% of Rs.75,200/- is Rs.7,520/- and this is now deducted from annual income of Rs.2,55,200/-, which comes to Rs.2,47,680/-. To this another 30% may have to be added towards future prospects, which comes to Rs.3,21,984/- (Rs.2,47,680 + Rs.74,304/-). And if 14 as multiplier is applied, the total value of loss of dependency will be Rs.45,07,776/-. Deducting 1/4th towards personal expenditure, it works out to Rs.33,80,832/-. Therefore, this Court determines Rs.33,80,832/- on the head of loss of dependency. On the heads of loss of love and affection, it reduces Rs.40,000/- on the award of the Tribunal and now

grants Rs.1,60,000/-, and on the head of loss of consortium, this Court grants only Rs.40,000/-. On the other conventional heads, it retains the amount awarded by the Tribunal. Therefore, this Court modifies the award of the Tribunal and enhances the compensation from Rs.24,73,576/- to **Rs.36,02,832/-** and table below provides the details thereof :

Sl. No.	Heads of Compensation	Amount awarded by this Court (Rs.)
1.	Loss of Dependency	33,80,832.00
2.	Loss of love and affection	1,60,000.00
3.	Loss of consortium	40,000.00
4.	Transportation Charges	10,000.00
5.	Funeral Expenses	10,000.00
6.	Damages to clothings	2,000.00
Total :		**36,02,832.00**

6.To conclude, this Court partly allows this appeal and the compensation payable is enhanced from Rs.24,73,576/- to 36,02,832/-. This Court is informed that the second respondent insurance company had deposited 50% of the compensation amount as awarded by the Tribunal. It is now required to deposit the balance with 7.5% interest, less the interest payable for 1666 days, within a period of six (6) weeks from the date of receipt of a copy of this order. 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 to them. 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.

09.11.2023

Tsg

To

1.The Motor Accident Claims Tribunal
cum 4th Additional District Judge,
Erode District, Bhavani.

2.The Section Officer,
V.R.Section, High Court, Madras.

N.SESHASAYEE, J.,

Tsg

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