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C.M.A.No.2430 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM:

HONOURABLE MRS. JUSTICE R.KALAIMATHI

C.M.A.No.2430 of 2021

1. A.Murugesan
2. M.Sumathi

.. Appellants

Versus

1. A.Ramachandran

2. HDFC ERGO Gl. Insurance Co.Ltd.,
R R Towers, II, 2nd Floor,
No.94/95, TVK Industrial Estate,
Guindy, Chennai – 600 032.

.. Respondents

Prayer:- This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 09th day of February, 2021 made in M.C.O.P.No.6129 of 2018 on the file of the Chief Court, (Motor Accidents Claims Tribunal), (Small Causes Court), Chennai.

For Appellants : Mr.P.T.Saleem Fathima

For Respondents : Mr.S.Arunkumar,

For R2.

R1 – No appearance.



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JUDGMENT

WEB COPY This Civil Miscellaneous Appeal is filed by the claimants, seeking enhancement of compensation granted by the Tribunal in the award dated 09.02.2021 made in M.C.O.P.No.6129 of 2018 on the file of Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

2.The appellants are the claimants in M.C.O.P.No. 6129 of 2018 on the file of Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai, claiming a sum of Rs.43,50,000/- as compensation for the death of S.Vimalraj in the road accident that took place on 27.08.2018.

3. The brief facts, which led to the filing of the present appeal, are as follows:

On 27.8.2018, at about 00.15 hours, while the deceased was travelling as a pillion rider in the motorcycle bearing Registration



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No.TN45 BT 0128 in Chennai-Madurai National Highways along with Manapparai and Agarapatti Junction, proceeding towards west direction, the first respondent's Omni Bus bearing Registration No.TN25 BE 8169 came in a rash and negligent manner from South to North and dashed against the motorcycle. Due to which the rider and the pillion rider of the motorcycle died on the spot. The appellants/claimants have filed the claim petition claiming Rs.43,50,000/- for the deceased by him in the accident.

3.1. At trial, on the side of the petitioners, P.W.1 to P.W.3 were examined and Exs.P1 to P23 were marked. On the side of the second respondent, neither any witness was examined nor any document was marked.

3.2 The Tribunal, after considering the oral and documentary evidence, held that the accident occurred only due to the rash and negligent driving by the driver of the omni bus, belonging to the



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respondent and directed the second respondent/Insurance Company to pay a sum of Rs.7,83,500/- as compensation to the appellants/claimants of the deceased. Not being satisfied with the amount awarded by the Tribunal under various heads, the appellants/Claimants have come out with the present appeal seeking enhancement of compensation.

4. Mr.P.T.Saleem Fathima, learned counsel appearing for the appellants contended that the Tribunal has taken the age of the petitioner as 22 years and adopted multiplier 18. He was studying III year BBA.

5. Learned counsel for the appellants/claimants further submitted that immediately after the accident, the appellants son died on the spot. Therefore, the compensation awarded by the Tribunal under different heads is very meagre and, thus, prayed for enhancement of the same.

6. Per contra, the learned counsel for the second respondent/Insurance Company would argue that the Tribunal had



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properly calculated the compensation and arrived at a just compensation and the same does not warrant any interference by this Court.

7. This Court considered the rival submissions and also perused the materials available on record.

8. On perusal of the case records, it is seen that at the time of accident, the deceased was aged 22 years and he was a student pursuing BBA IIIrd year who had a bright future to earn good income. Considering the educational qualification of the deceased, this Court deems fit to fix the income of the deceased at Rs.14,000/- p.m. As per the law laid down by the Hon'ble Supreme Court in ***National Insurance Co. Ltd., v. Pranay Sethi and others*** reported in ***2017 (2) TN MAC 609 (SC)***, the Apex Court has standardised the details of future prospects for the age group of persons below 40 years, other than the persons in permanent job, 40% has to be added with the income.



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The relevant multiplier to be adopted is 5. Based on the aforesaid details, computing the loss of income, the following formula emerges:

Age of the deceased	:	22 years
Monthly income fixed	:	Rs.14,000/-
Future Prospects to be added	:	40%
		Rs.14,000/- + 40% = Rs.19,600/-
Deduction for Personal & Living Expenses	:	12
Multiplier to be adopted	:	18m
Loss of Income	:	Rs.19,600/- X 18 X 12 X 1/2
	:	Rs.21,16,800/-

9. For Loss of Estate an amount of Rs.15,000/- is granted. For loss of consortium, an amount of Rs.40,000/- to each claimant is granted. In all other aspects, the amounts awarded by the Tribunal appears to be very reasonable and needs no interference. Therefore, the Compensation awarded by the Tribunal is reworked as tabulated below:



Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	Loss of dependency	Rs.15,12,000/-	Rs.21,16,800/-	Enhanced
2	Towards Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-	Confirmed
3	Loss of Love and Affection	Rs. 40,000/-	Rs. 80,000/-	Confirmed
4	Total compensation	Rs.15,67,000/-	Rs.22,11,800/-	
5	(Deducting 50% towards contributory negligence) - Total compensation payable	Rs.7,83,500/-	Rs.11,05,900/-	

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,83,500/- is hereby enhanced to Rs.11,05,900/- together with interest at the rate of 7.5% per annum 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



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costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.6129 of 2018 on the file of Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai. On such deposit, the appellants are permitted to withdraw the enhanced award amount along with interest and costs, less the amount if any, already withdrawn.

No costs.

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Index : Yes / No

Internet : Yes/ No

Speaking/non-speaking order



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To

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- 1.The Chief Judge,
Small Causes Court,
Motor Accidents Claims Tribunal, Chennai.
- 2.The Section Officer,
V.R.Section, High Court, Chennai.



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R.KALAIMATHI, J.,

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