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CMA No.2736 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2023

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.2736 of 2022

1. Sankaramma
2. Prathap Reddy

.. Appellants

Vs.

1. K.Sivakumar.
2. The Oriental Insurance Company Limited,
Motor Third Party Hub,
No.115, Broadway,
II Floor,
Chennai – 600 001.

.. Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to enhance the award dated 11.11.2019 passed in MCOP No.2967 of 2013 on the file of the Motor Accident Claims Tribunal [V Court of Small Causes], Chennai.

For Appellants : Mr.C.Richard Suresh Kumar

For Respondents : Mr.D.Bhaskaran (for R2)



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JUDGMENT

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In a road transport accident on 15.10.2012, a Tanker lorry bearing Regn. No.AP-03-X-6566, driven by its driver in a rash and negligent manner, got capsized and the lorry got burst, thereby caused fire accident, wherein 22 persons were injured and 2 persons were dead. Injured claimants/legal representatives of the deceased, filed individual claim petitions, numbering 24, before the Motor Accident Claims Tribunal [V Court of Small Causes], Chennai. All the 24 cases were tried jointly and by a common judgment dated 11.11.2019, the claims tribunal held that the driver of the Tanker Lorry was negligent in causing the accident and accordingly, fastened liability on the insurer of the Tanker Lorry viz., the Oriental Insurance Company, the 2nd respondent herein and awarded compensation in each claim petitions.

2. Claim petitioners in MCOP No.2967 of 2013, are the appellants herein seeking enhancement of compensation for the death of one Damodhar Reddy, in the above said accident.



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3. For the sake of convenience, the parties are hereinafter referred to as per their ranking before the claims tribunal.

4. The factum of the accident, the manner of the accident and the negligence on the part of the driver of the offending vehicle, are not disputed. Hence, the findings of the claims tribunal, are confirmed.

5. The claim petitioners, who are the wife and son of one Damodhar Reddy, who died in the road transport accident on 15.10.2012, have filed the above MCOP and the claims tribunal has awarded a sum of Rs.10,64,700/- with interest at the rate of 7.5% per annum from the date of numbering of claim petition till the date of realization with costs.

6. On the point of quantum of compensation, heard the learned counsel for the appellant/claim petitioner and the learned counsel appearing on behalf of the 2nd respondent/Insurance Company and perused the materials available on record.



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7. The deceased was aged about 50 years as per Postmortem certificate and in the Legal Heirship Certificate-Ex.P17, these claim petitioners are shown as his legal heirs. The deceased was claimed to be doing business and the tribunal has fixed Rs.6,000/- as notional income. However, taking into consideration the entirety of circumstances, I am inclined to fix the notional income at Rs.9,000/-. Accordingly, taking Rs.9,000/- as notional income; by applying '13' multiplier; also adding 10% of income towards future prospects and deducting 1/3rd towards the personal and living expenses, as done by the claims tribunal, the loss of dependency is arrived at as follows:

Monthly Income	: Rs. 9,000/-
Add 10% Future Prospects	: Rs. 900/-
Total	: Rs. 9,900/-
$\text{Rs.9,900} \times 12 \times 13 \times \frac{2}{3} = \text{Rs.10,29,600/-}$	

Compensation amount under other heads and the interest awarded by the tribunal, appears to be just and reasonable and hence, they are kept intact.

The reassessed compensation is as follows:

	Amount awarded by the tribunal Rs.	Award now modified Rs.	Enhanced Amount
Loss of dependency	6,86,400 (6000+(6000*10%)x	10,29,600 (9000+(9000*10%)x1	3,43,200



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	Amount awarded by the tribunal Rs.	Award now modified Rs.	Enhanced Amount
	12x13x2/3	2x13x2/3	
Loss of consortium to 1 st petitioner/wife	40,000	40,000	-
Loss of love and affection to 2 nd petitioner/son	40,000	40,000	-
Medical Expenses	2,58,253	2,58,253	-
Loss of estate	15,000	15,000	
Transport expenses	10,000	10,000	
Funeral expenses	15,000	15,000	
Total	10,64,653	14,07,853	
Rounded off	10,64,700	14,07,900	
Enhanced now			Rs.3,43,200/-

8. In the result, it is ordered as follows:

- (i) The judgment and decree dated 11.11.2019, made in MCOP No.2967 of 2013 on the file of the Motor Accident Claims Tribunal [V Court of Small Causes], Chennai, stands modified to the limited extent that the compensation of Rs.10,64,700/- awarded by the claims tribunal is enhanced to Rs.14,07,900/- i.e. Rs.10,64,700/- + Rs.3,43,200/- and the interest awarded by the claims tribunal remains unaltered.
- (ii) Additional Court fee, if any, to be paid by the claim petitioners within a period of four weeks and decree to be drafted after the payment of Court fee.



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(iii) The 2nd respondent-Insurance company is directed to deposit the enhanced compensation amount of Rs.14,07,900/- with proportionate interest and costs to the credit of MCOP No.2967 of 2013 on the file of the Motor Accident Claims Tribunal [V Court of Small Causes], Chennai, within a period of eight weeks from the date of receipt of a copy of this order, less the amount deposited, if any.

(iv) On such deposit, the appellants/claim petitioners, are permitted to withdraw the same in the ratio of 70:30 i.e. Rs.9,85,530/- to 1st appellant/wife and Rs.4,22,370/- to 2nd appellant/son, less the amount withdrawn, if any, on making necessary applications.

9. With the above directions, the Civil Miscellaneous Appeal stands partly allowed. No Costs.

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Index : Yes/No

Neutral Citation : Yes/No.

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RMT.TEEKAA RAMAN,J.,

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To

The V Judge,
Court of Small Causes,
Motor Accident Claims Tribunal, Chennai.

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