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C.M.A.No.1250 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM :

THE HONOURABLE **MR.JUSTICE SUNDER MOHAN**

C.M.A.No.1250 of 2023

1.Bhavani
2.M.Srinivasan

...Appellants/Petitioners

Vs.

1. M. Gajendran
2. M/s. Go Digital General Insurance Company Limited,
26-B, Jawaharlal Nehru Salai,
Ekkaduthangal,
Guindy, Industrial Estate,
Chennai – 600 032.

...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 16.02.2023 and made in M.A.C.T.O.P.No.6409 of 2019 on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.



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For Appellants : Mrs. A. Subadra

For Respondents : R1 - Exparte

R2 – Mr. B. Siva Kollapan

J U D G M E N T

The claimants have preferred the above appeal challenging the quantum of compensation awarded by the Tribunal.

2. The appellants had filed a claim petition stating that on 11.11.2019, at about 12.00 hours, while the deceased was riding a motorcycle bearing Reg. No. TN 25 BE 3595 in a public place, a lorry bearing Reg. No. TN18 AB 1641, belonging to the first respondent and insured with the second respondent came in a rash and negligent manner rammed the motorcycle from behind as a result of which, the deceased sustained fatal injuries.

3. The first respondent remained exparte before the Tribunal.

4. The second respondent/insurance company filed a counter stating that the accident took place only on account of the negligence of the rider of



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the two wheeler; that the driver of the lorry did not have a valid driving license at the time of the accident; that therefore, they are not liable to pay compensation to the appellants; and that in any case, the claim made by the appellants was excessive and prayed for dismissal of the claim petition.

5. The appellants examined P.W.1 and P.W.2 and marked fourteen documents as Exs.P1 to P14. The second respondent neither examined any witness nor marked any document.

6. The Tribunal after taking into consideration the evidence on record directed the second respondent/insurance company to pay a total compensation of Rs.16,22,000/- to the appellants.

7. The learned counsel for the appellants submitted that the notional income fixed by the Tribunal at Rs.10,000/- per month is meagre and sought for enhancement of compensation. The learned counsel relied upon the Judgment of this Court in C.M.A.Nos.149 & 740 of 2021 and submitted that Rs.18,000/- may be fixed as notional income.



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8. Since the first respondent remained exparte before the Tribunal, the learned counsel for the appellants filed a verified petition to dispense with notice to the first respondent. Hence, notice to the first respondent is dispensed with.

9. The learned counsel for the second respondent per contra, submitted that in the absence of any evidence, the Tribunal was right in fixing a notional income as Rs.10,000/- and prayed for dismissal of the appeal.

10. Heard the learned counsel for the appellants as well as the learned counsel for the second respondent and perused the materials available on record.

11. The only question involved in the instant appeal is whether the Tribunal has fixed just and reasonable compensation?



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12. It is seen from the records that the appellants who are the parents of the deceased had established that the deceased was pursuing his college education and he was a second year Bachelor of Commerce (B.Com.) student. The appellants have produced the College ID card/Ex.P7 and the Grade Card/Ex.P8 to establish the same. It is also seen that this Court in C.M.A.Nos.149 & 740 of 2021 had fixed Rs.18,000/- as notional income for a third year college student pursuing Bachelor of Computer Science (B.C.S.,) course for an accident which took place in the year 2019. Considering the above facts, the educational qualification of the deceased, age, year of the accident and that the claimants/parents of the deceased, this Court is of the view that it would be just and reasonable to fix Rs.16,000/- per month as notional income of the deceased. Since the deceased was 19 years at the time of the accident, the appellants are entitled to 40% enhancement towards future prospects. The multiplier applicable is '18'. Thus, the appellants would be entitled to compensation under the head "Loss of Dependency" as follows:

$$\text{Rs.16,000/-} + \text{Rs.6,400/- (40\% of Rs.16,000/-)} \times 12 \times 18 \times 1 / 2 = \\ \text{Rs.24,19,200/-}$$



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13. The compensation awarded by the Tribunal under other heads is just and reasonable and hence, the same are confirmed. Thus, the compensation awarded by the Tribunal is enhanced from Rs.16,22,000/- to Rs.25,29,200/-, break-up as follows:-

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income/ Dependency	15,12,000/-	24,19,200/-	Enhanced
2.	Loss of Estate	15,000/-	15,000/-	Confirmed
3.	Loss of Consortium	80,000/-	80,000/-	Confirmed
4.	Funeral Expenses	15,000/-	15,000/-	Confirmed
	Total	Rs.16,22,000/-	Rs.25,29,200/-	Enhanced by Rs.9,07,200/-

14. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.16,22,000/- is hereby enhanced to Rs.25,29,200/- together with interest at



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the rate of 7.5% per annum (excluding the default period if any) from the date of petition till the date of deposit. The second respondent/Insurance Company is directed to deposit the award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of receipt of a copy of this Judgment. On such deposit, the appellants are permitted to withdraw their share of the award amount along with proportionate interest and costs, less the amount if any, already withdrawn, on the basis of apportionment fixed by the Tribunal. 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

Neutral Citation: Yes / No



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Copy to:-

1. The Chief Judge,
Motor Accident Claims Tribunal,
Court of Small Causes,
Chennai.
2. The Section Officer,
VR Section,
High Court of Madras,
Chennai.



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SUNDER MOHAN, J.

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