



C.M.A.No.2924 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

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1. Banumathi
2. Dharshinishri
3. Sanjana Ragavi

(Appellants 2 & 3 are declared as major and their mother A1 Banumathi is discharged from guardianship of the appellants 2 & 3, vide *Suo motu* order of this Court dated 08.11.2023 made on CMA.No.2924 of 2019)

4. Pappu (*Died*) ...Appellants

Vs.

1. S.Saravanabhavan
2. M/s. New India Assurance Co. Ltd.,
Amman Complex, I Floor, Mettur Road,
Erode Town & Taluk, Erode District. ...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 06.09.2017 made in M.C.O.P.No.112 of 2014 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Namakkal.

For Appellants : Mr.T.S.Arthanareeswaran

For Respondents : Not ready notice, for R1
: M/s.R.Sree Vidhya, for R2

JUDGEMENT



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Aggrieved by the judgment and decree passed by the Motor Accidents Claims Tribunal, Principal District Judge, Namakkal in M.C.O.P.No.112 of 2014 dated 06.09.2017, the claimants have come up with this Appeal.

2. The case of the appellants is that, on 13.12.2013 at about 03.15 pm., when the deceased Sivakumar was travelling in a car bearing Regn.No.TN-56-C-9131 driven by its driver, a Bus bearing Regn.No.TN-33-AU-3979 (SSS Bus), owned by the 1st respondent insured with the 2nd respondent driven by its driver in a rash and negligent manner, came in the opposite direction and dashed against the above said car, as a result of which, the deceased sustained fatal injuries all over his body and died on spot. Thereby, the appellants/claimants being the dependants of the deceased filed a claim petition claiming a compensation of Rs.20,00,000/- . After contest, the tribunal, vide impugned judgment awarded a compensation of Rs.6,85,000/-. Aggrieved by the said order, the appellants have come up with this appeal seeking enhancement of the compensation fixed by the tribunal.

3. Learned counsel for the appellants submitted that, the above said



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accident happened solely due to the rash and negligent driving of the driver of the 1st respondent, for which the FIR came to be registered as against the driver of the 1st respondent and at the time of accident, the deceased was aged about 44 years and was working as a Supervisor and driver and was earning a sum of Rs.15,000/- per month and due to the injuries sustained by him he lost his life. Whiles, without considering any of the above said facts, the tribunal, had taken the monthly income of the deceased as Rs.6,000/- and deducted 1/3rd amount from it and had fixed the monthly contribution of the deceased as Rs.4,000/-which is on the lower side and the Tribunal has not added future prospects, which requires to be reconsidered by this Court. That apart, the amount awarded under other heads are also on the lower side. Accordingly, he prays for appropriate enhancement in favour of the appellants.

4. Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement.

5. Heard the learned counsel for the appellants and the learned



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counsel appearing on behalf of the 2nd respondent and perused the materials available on record.

6. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellants/claimants is with regard to the quantum of compensation awarded. It is claimed by the appellants that though the deceased had earned a sum of Rs.15,000/- per month, however, without considering the same, the Tribunal has fixed the notional income at Rs.6,000/-, which is very meagre. It has been the view of the courts that even a housewife is entitled to monthly income to be fixed for the purpose of qualifying their work for the purpose of quantifying the amount receivable by them. Applying the ratio laid down by the Hon'ble Supreme Court in the case of *Syed Sadiq Vs. United India Insurance Company* reported in **2014 (1) TANMAC 459**, fixing a notional income of Rs.8,000/- and adding future prospects at 25%, as has been held by the Constitution Bench in the case of *National Insurance Company Limited Vs. Pranay sethi and others* reported in **2017 (16) Supreme Court Cases 680**, the total income per month is quantified at Rs.10,000/-. Deducting



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1/4th towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.7,500/- per month and the deceased being aged about 44 years, as evidenced from the records, adopting the multiplier of 14 as fixed by the Apex Court in the case of *Sarla Verma and Ors. v. DTC & Ors.* reported in (2009) 6 SCC 121, the loss of income to the family is arrived at Rs.7,500/- * 12 * 14 = Rs.12,60,000/-, which is worked out as follows :-

<i>Loss of Income</i>	<i>Amount (in Rs.)</i>
Notional income (Per month)	8,000
Add: Future Prospects (Rs.8,000 x 25%) (Per month)	2,000
	10,000
Less: Personal expenses (1/4 th) (Rs.10,000/- x 1/4) (Per month)	2,500
	7,500
Notional income (per annum) (Rs.7,500/- x 12)	90,000
Multiplier	14
Total	12,60,000

7. Further, the compensation awarded under the heads “Loss of estate“, “Funeral Expenses“, “Love and affection“ and “Transportation“ are very meagre and the same is enhanced to a sum of Rs.15,000/-, Rs.15,000/-, Rs.1,20,000/- (40,000 * 3 = 1,20,000/-) and Rs.10,000/-



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respectively.

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8. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of Income	6,72,000/-	12,60,000/- (enhanced)
Loss of love and affection (Rs.40,000/- x 3)	2,000/-	1,20,000/- (enhanced)
Transportation and ambulance expenses	5,000/-	10,000/- (enhanced)
Funeral Expenses	5,000/-	15,000/- (enhanced)
Loss of estate	1,000/-	15,000/- (enhanced)
Total	6,85,000/-	14,20,000/-

9. Further, it is pertinent to note that, when the claim petition was filed in the year 2014, the 2nd and 3rd appellants were minors, both aged about 12 years. Now, the appellants 2 and 3 would have attained majority. Though no application has been taken out to declare them as major, this Court *suo motu* takes into account the age given in the claim petition and also taking into account the efflux of time, declares the 2nd



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and 3rd appellants as major and discharges their guardian M/s.Banumathi from the guardianship. The Registry shall carry out the necessary amendments.

10. Accordingly, the appeal stands allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.6,85,000/-** to **Rs.14,20,000/-**. The 2nd respondent-Insurance company is directed to deposit the said amount to the credit of M.C.O.P.No.112 of 2014 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. In the above said amount, the 1st appellant is entitled to a sum of Rs.4,20,000/- and the 2nd and 3rd appellants are entitled to a sum of Rs.5,00,000/- each. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the appellants through RTGS within a period of two (2) weeks thereafter, upon production of necessary proof for payment of court fee for enhanced compensation by the appellants. The appellants are not entitled for any



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interest for the default period, if any. There shall be no order as to costs in the present appeal.

08.11.2023

skt

Index : Yes / No
Speaking order : Yes / No
NCC : Yes / No

To

- 1.The Motor Accidents Claims Tribunal, Principal District Judge,
Namakkal.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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