



C.M.A.No.2003 of 2014

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.2003 of 2014

1.G.Alamelu
2.Swathiga (Minor)
3.V.Rajeswari

... Appellants

Vs.

1.K.Pari
2.Reliance General Insurance Co., Ltd.,
“Rai's Towers”, 2nd Floor, 2nd Avenue.
Next to G.R.T Jewellers, Anna Nagar,
Chennai – 600 040.
3.S.P.Chandrasekaran
4.United India Insurance Co., Ltd.,
Motor Third Party Hub,
Silingi Building,
No.134, Greams Road,
Thousand Lights, Chennai – 6.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against Judgment and Decree dated 29.11.2013 passed in M.C.O.P.No.1682 of 2011 on the file of the Motor Accident Claim Tribunal (Court of Small Causes), Chennai.



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For Appellants : Mr.N.M.Muthurajan
for Mr.M.Mahendran

For Respondents
For R1 & R3 : Not ready in notice
For R2 : Mr.P.Suresh Srinivasan
For R4 : Mr.P.Sankaranarayanan

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 29.11.2013 made in M.C.O.P.No. 1682 of 2011 on the file of the Motor Accident Claims Tribunal (Court of Small Causes), Chennai.

2. The claim petitioners are the appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.1682 of 2011.

3. The legal representatives of the deceased V.Gurumoorthy filed M.C.O.P.No.1682 of 2011, seeking compensation and filed this Appeal on the point of quantum of compensation.



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4. It is the case of the appellants that on 03.01.2011 at about 08.00 hours, when V.Gurumoorthy (since deceased) was walking in Rajiv Garden road, Thoraipakkam from east to west direction, the 1st respondent's lorry bearing Reg.No.TN-25-B-2634 driven by its driver, drove the vehicle in a rash and negligent manner, from behind dashed against the deceased, due to which, the deceased sustained head injuries and died on the spot. Hence, the accident occurred.

5. The factum of the accident, manner of the accident are not under challenge in this Appeal. Accordingly, the findings rendered by the trial Court in this regard are hereby confirmed.

6. During the trial, on the side of the claim Petitioners, PW1 & PW2 were examined & Ex.P.1 to Ex.P.4 were marked and on the side of the Respondents, R.W.1 was examined and Ex.R1 & Ex.R3 were marked.

7. On appreciation of the materials before it, the Tribunal awarded compensation as follows:



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<i>Sl.Nos.</i>	<i>Heads</i>	<i>Compensation</i>
1.	Loss of Pecuniary benefits of the deceased	Rs.7,48,800/- (Rs.4500+30%=5850/- after 1/3 rd deduction Rs.3,900/-x12x16)
2.	Loss of love and affection (2 nd & 3 rd petitioner)	Rs.25,000/-
3.	Loss of consortium to the 1 st petitioner	Rs.25,000/-
4.	Funeral expenses	Rs.10,000/-
5.	Loss of estate of the deceased	Rs.10,000/-
6.	Transport expenses	Rs.5000/-
<i>Total</i>		Rs.8,23,800/-

The said sum was directed to be paid by the respondent along with interest at 7.5% per annum from the date of petition till the date of realization.

8. Learned counsel for the appellants/claimants submitted that the Tribunal has wrongly fixed the income of the deceased at Rs.4,500/- and also erred in awarding Rs.25,000/- towards loss of love and affection, Rs.25,000/- towards loss of consortium and Rs.10,000/- towards funeral expenses and Rs.10,000/- towards loss of estate. Hence, he prays for enhancement of compensation.



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9. The learned counsel for the respondents, on the other hand, submits that the order of the Tribunal is just and fair and it does not requires any interference by this Court.

10. Heard the learned counsel appearing for the parties and perused the records.

11. Considering the fact that the accident had occurred due to the negligence of the driver of the lorry and the deceased had lost his life and also taking note of the fact that the deceased was a taxi driver and hence, this Court is inclined to enhance the monthly income of the deceased at Rs.6,500/- ($\text{Rs.6,500/-} + 40\% = \text{Rs.9,100/-}$ and after $1/3^{\text{rd}}$ deduction, $\text{Rs.6,066/-} \times 12 \times 16 = \text{Rs.11,64,672/}$). The Tribunal has awarded Rs.25,000/- towards loss of love and affection, which appears to be lower side and hence, it has to be enhanced. Accordingly, Rs.80,000/- is enhanced for major claim petitioners ($\text{Rs.40,000/-} \times 2$). The Tribunal has awarded Rs.25,000/- towards loss of consortium to the 1st petitioner which also needs to be enhanced and hence, this Court granted Rs.40,000/- towards loss of consortium. The Tribunal has awarded Rs.10,000/-



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towards loss of estate and Rs.10,000/- towards funeral expenses, which need to be enhanced, hence, this Court is inclined to enhance Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. The Tribunal has awarded Rs.5000/- towards transportation and the same is hereby confirmed.

12. In the light of the said discussions, the modified award is as follows:

<i>Sl.Nos.</i>	<i>Heads</i>	<i>Compensation</i>
1.	Loss of Pecuniary benefits of the deceased	Rs.11,64,672/- (Rs.6500+40%=9100/- after 1/3 rd deduction Rs.6066/-x12x16)
2.	Loss of love and affection (2 nd & 3 rd petitioner)	Rs.80,000/- (Rs.40,000x2)
3.	Loss of consortium to the 1 st petitioner	Rs.40,000/-
4.	Funeral expenses	Rs.15,000/-
5.	Loss of estate of the deceased	Rs.15,000/-
6.	Transport expenses	Rs.5000/-
<i>Total</i>		Rs.13,19,672/-

Accordingly, the amount awarded by the Tribunal is enhanced from Rs.8,23,800/- to Rs.13,19,672/- together with interest at 7.5% per annum from the date of petition till the date of realization



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13. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.8,23,800/- to Rs.13,19,672/- to the extent indicated above. No Costs.

(ii) the respondents are directed to deposit the enhanced award amount, with interest and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order.

(iii) on such deposit being made, all the claim Petitioners/Appellants are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The claim Petitioners are permitted to withdraw their entire share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal.

(iv) the claim Petitioners are directed to pay the court fee, if any, for the



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enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

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Index : Yes/No
Speaking Order/Non-Speaking Order
ata

To

The Presiding Officer,
The Motor Accident Claim Tribunal, Court of Small Causes,
Chennai.



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A.A.NAKKIRAN.J,

ata

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