



WEB COPY



CMA No. 1325 / 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 1325 of 2023

1.Anbumani

2.Minor Veeramani

3.Minor Iyyappan

(Minor appellants 2 and 3 rep., by their Next
Friend and Natural guardian mother Anbumani)

... Appellants

Versus

1.E. Palani

2.Reliance General Insurance Co.Ltd.,
Reliance House, 6th Floor,
No. 6, Haddows Road, Nungambakkam,
Chennai – 600 006.

... Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.
No. 2104 of 2014 dated 29.08.2018 on the file of the Motor Accident
Claims Tribunal / Principal District Judge, Cuddalore.

For Appellants

: Ms. N. Keerthana for
Ms. Ramya V. Rao.

For Respondents

: Ms. C. Bhuvanasundari for R2.

R1 – Dispensed with.



CMA No. 1325 / 2023

J U D G M E N T

WEB COPY The claimants have preferred the instant appeal seeking enhancement of compensation in the award passed by the Tribunal in M.C.O.P. No. 2104 of 2014 dated 29.08.2018.

2.The claimants/appellants have filed the claim petition stating that the deceased was working as a Machine operator in a concern by name Aruna Blue Metals, Unaimanchety Village; that on 01.06.2014 at about 04.30 hrs, while the deceased was sleeping near the said concern, a lorry belonging to the first respondent and insured with the second respondent came in a rash and negligent manner and ran over the deceased, as a result of which the deceased sustained fatal injuries.

3.The first respondent remained ex parte before the Tribunal.

4.The second respondent filed a counter stating that the accident took place only due to the negligence of the deceased; and that in any case, the compensation claimed was excessive and prayed for dismissal of the appeal.



CMA No. 1325 / 2023

WEB COPY 5.The appellants examined PW1 and PW2 and marked Ex.P.1 to Ex.P.9. The second respondent examined RW1 and marked Ex.R.1.

6.The Tribunal after taking into consideration the oral and documentary evidence held that the accident took place due to the negligence of the driver of the vehicle insured with the second respondent and directed the second respondent to pay a compensation of Rs.10,83,000/- to the appellants.

7.The learned counsel for the appellants submitted that though the appellants had established that the deceased was working as a Machine Operator in a company by name 'Aruna Blue Metals', the Tribunal fixed a very low monthly income of Rs.6,000/- which requires enhancement. Further, the learned counsel submitted that no compensation was awarded under the head loss of love and affection for the appellants 2 and 3 and hence, prayed for allowing the appeal.

8. Notice to the first respondent has been dispensed with by order of this Court dated 20.04.2023.



CMA No. 1325 / 2023

WEB COPY 9.The learned counsel for the second respondent, per contra, submitted that in the absence of any evidence to prove the income of the deceased, the Tribunal had rightly fixed the notional income and hence, prayed for dismissal of the appeal.

10.The only question that arises for consideration in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.

11.On perusal of the records, it is seen that the appellants had examined PW1, wife of the deceased to prove the avocation of the deceased. The appellants had also marked Ex.P.6, salary certificate. However, the employer of the deceased was not examined. Considering the avocation of the deceased, his age at the time of the accident, the year of the accident and the number of dependents, this Court is of the view that it would be just and reasonable to fix Rs.12,000/- per month as notional income. Since the deceased was aged 40 years at the time of the accident, the multiplier applicable is 15 and the appellants are entitled to 25% enhancement towards future prospects. Therefore, the compensation



CMA No. 1325 / 2023

under the head loss of income would be Rs.12,000 + Rs.3,000 (25% of Rs.12,000) = Rs.15,000 X 12 X 15 X 3/4 (1/4 deducted towards personal expenses as the father of the deceased was alive at the time of the filing the claim petition) = Rs.20,25,000/-. The appellants 2 and 3 are each entitled to Rs.40,000/- under the head loss of love and affection and the same is enhanced to Rs.1,20,000/-. The award under the other heads are just and the same are confirmed. Thus, the award of the Tribunal is modified as follows;

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	10,12,500	20,25,000	Enhanced
2.	Loss of love and affection	40,000	1,20,000	Enhanced
3.	Funeral Expenses	15,000	15,000	Confirmed
4.	Loss of Estate	15,000	15,000	Confirmed
	Total	10,82,500 rounded off to 10,83,000	21,75,000	Enhanced by Rs.10,92,000/-



CMA No. 1325 / 2023

Though the Tribunal has fixed the rate of interest at 8% per annum, this Court is of the view that in the facts and circumstances of the case, it would be just and reasonable to fix the rate of interest at 7.5% per annum.

12. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,83,000/- is hereby enhanced to Rs.21,75,000/- together with interest at 7.5% per annum (excluding the default period if any) from the date of petition till the date of deposit. The second respondent is directed to deposit the award amount now determined by this Court along with proportionate interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit, the first appellant is permitted to withdraw her share of the award amount along with proportionate interest and costs, less the amount if any, already withdrawn, as per the apportionment fixed by the Tribunal. The shares of the minor second and third appellants are directed to be deposited in any of the nationalized bank in a interest bearing Fixed Deposit till they attain majority and the first appellant is permitted to withdraw the accrued interest once in every



CMA No. 1325 / 2023

six months. The appellants are directed to pay the necessary Court fee if any on the enhanced award amount. No costs.

27.09.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1.The Motor Accident Claims Tribunal,
Principal District Judge, Cuddalore.

2.The Section Officer,
V.R. Section,
High Court of Madras,
Chennai.



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CMA No. 1325 / 2023

SUNDER MOHAN, J

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C.M.A. No. 1325 of 2023

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