



C.M.A.No.150 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 27.01.2023	Pronounced on 02.02.2023
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.150 of 2023

1.Nagavalli
2.A.Elavarasi
3.A.Raja

...Appellants

Vs.

1.E.Ganesh
2.The Divisional Manager,
The New India Assurance Co.Ltd.,
No.1, Bharathi Road,
Cuddalore - 607 001.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award in Judgment and Decree dated 23.02.2022 made in M.C.O.P.No.967 of 2019 on the file of Motor Accident Claims Tribunal/Principal District Judge, Cuddalore.

For Appellants : Mrs.Ramya V.Rao
For R2 : Mr.J.Chandran



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J U D G M E N T

This Appeal has been filed against the award dated 23.02.2022 made in M.C.O.P.No.967 of 2019 on the file of Motor Accident Claims Tribunal/(Principal District Judge, Cuddalore).

2.The claim Petitioners are the Appellants herein, seeking enhancement of compensation. For the sake of convenience, the parties are referred to as per their rank before the trial Court.

3.The claim Petitioners are the legal representatives of the deceased Arunachalam, who died in the road traffic accident on 27.03.2019. After trial, the Tribunal has awarded a sum of Rs.6,54,000/- as compensation in M.C.O.P.No.967 of 2019 filed by the claimants. Having not satisfied with the quantum, the claim Petitioners preferred the present Appeal.

4.Mr.J.Chandran, learned counsel takes notice on behalf of the 2nd Respondent/Insurance Company.



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5. Heard the learned counsel appearing on behalf of both sides and perused the materials available on record.

6. The first petitioner is the widow of the deceased Arunachalam who died in the road transport accident happened on 27.03.2019. While the Petitioners 2 and 3 are the son and daughter of the deceased person.

7. During the trial, on the side of the Petitioners, PW1 & PW2 were examined and Ex.P.1 to Ex.P10 were marked. None was examined and no documents were marked on the side of the Respondents.

8. The Tribunal has come to the conclusion that the accident has taken place due to the rash and negligent driving of the driver of the first respondent and the vehicle in question is insured with the second respondent/Insurance Company and accordingly, the Tribunal held that both the respondents are jointly and severally liable to pay the compensation.



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9. As per the evidence of PW1, deceased was working as a Agricultural Coolie and also Mason at the time of the accident. Hence, a sum of Rs.7,000/- is taken as the notional income of the deceased and as per the judgment of the Hon'ble Supreme Court in the case of ***Sarla Verma & Others .Vs. Delhi Transport Corporation & another***, reported in ***2009 (2) TNMAC 1 (SC)***, right multiplier is “9” and the same is adopted and 1/3rd deduction towards personal expenses is also adopted and hence the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

10.The deceased Arunachalam was working as a Agricultural Coolie and also Mason and the Tribunal has taken the notional income as Rs.7000/-. Taking into consideration the date of the accident being 27.03.2019, the notional income is now fixed at Rs.11,000/- . At the time of the accident, he was aged about 59 years and accordingly 10% future prospectus is to be added. Accordingly, the loss of income is arrived at Rs.4,35,600/- $(11,000 + 1100 = 12100) \times 12 \times \frac{2}{3} \times 9 = 8,71,200/-$.



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11. A sum of Rs.40,000/- each is awarded to Petitioners 2 & 3 towards loss of love and affection.

12. The amounts granted by the Tribunal under the other heads are confirmed.

13. The break-up of the compensation is as follows:

S. No.	Head	Awarded by the tribunal	Awarded by this Court
1.	Loss of income	5,54,000/-	8,71,200/-
2.	Loss of consortium	40,000/-	40,000/-
3.	Loss of Love and affection	30,000/-	80,000/- (40,000 x 2 children)
4.	Funeral expenses	15,000/-	15,000/-
5.	Loss of estate	15,000/-	15,000/-
	Total	6,54,000/-	10,21,200/-

In total, the claimants are entitled to a sum of Rs.10,21,200/- (Rupees Ten lakhs twenty one thousand and two hundred only). Interest at the rate of 7.5% per annum fixed by the Tribunal is also confirmed.



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14. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from **Rs.6,54,000/- to Rs.10,21,200/-** to the extent indicated above. No Costs.

(ii) the 2nd Respondent/insurance company is directed to deposit the modified enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

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

(iv) the appellants/claimants are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

02.02.2023

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WEB COPY Index : Yes/No

Internet : Yes/No

Neutral Citation: Yes/No

Speaking Order: 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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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in
C.M.A.No.150 of 2023

Dated:02.02.2023