



CMA.No.290 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.08.2023

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.A.No.290 of 2014

1. S.Shanthi
2. S.Saranya (minor)
3. Vasudevan (minor)
[2 and 3 Appellants declared as major
and their next friend Natural Guardian
Mother S.Shanthi discharged from
Guardian Ship vide Court Order
dated 21.06.2023 made in
CMP.Nos.12569 and 12571 of 2023
made in CMA.No.290/2014]

... Appellants

vs.

1. R.Nagarajan
2. K.Kumaresan
3. Royalsundram Alliance Insurance Co.Ltd.,
Branch Office, No.46, Whites Road,
Chennai-600 014.
4.K.Yattaippagounder (died)
5. E.Kulataiammal

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 (1) of the Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Accident Claims Tribunal, Dharapuram dated 21.08.2013 in M.C.O.P.No.1151 of 2009.



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For appellant : Mr.S.Dhanasekaran
For respondents : Mr.V.Raghunathan
: Mr.N.VijayaRaghavan for R3

JUDGMENT

This Civil Miscellaneous Appeal is filed by the legal representatives of E.Subramani @ Subramanian, S/o.Ettiappa Gounder against the judgment and decree passed in MCOP. No.1151 of 2009 on the file of the Motor Accidents Claims Tribunal, Dharapuram on 21.10.2013 for enhancement of compensation.

2. Claim petition was filed under Section 166 of Motor Vehicles Act, claiming compensation of Rs.20,00,000/- for the death of Subramanian in a road accident that occurred on 14.07.2009.

3. The learned Tribunal after hearing both sides and upon considering the oral and documentary evidence has passed an award for a sum of Rs.5,67,000/- with interest at 7.5% per annum from the date of filing of petition till the date of deposit.



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4. The learned counsel for the appellant would vehemently contend that the deceased Subramanian was aged about 44 years. At the relevant point of time, he was working as a driver of Heavy Vehicle besides working as a Supervisor of Crusher Unit. To prove the income, owner of Cheran Blue Metals was examined as P.W.3 and through him, Salary certificate Ex.P.11 was marked. The deceased was earning a salary of Rs.15,000/- per month. The tribunal fixed the salary at Rs.4,500/- . No amount was granted for Loss of Estate, the amount granted for loss of Love and Affection is insufficient and hence he prayed to add future prospects while computing income and prayed for enhancement.

5. Per contra, the learned counsel for the respondent/Insurance Company would strenuously argue that it is relevant to note that the salary certificate Ex.P.11 was issued three years later (from the date of accident). It is his argument that by working as a driver, it was not possible to have worked as a Manager. The learned Tribunal after taking into consideration of oral and documentary evidence has passed an award is quite reasonable.



6. For the death of Subramanian, his wife along with her minor two minor children, filed the claim petition. It is claimed that the deceased was aged about 44 years and he was working as a driver of heavy vehicle besides working as a Manager in the Crusher Unit and earning Rs.15,000/- per month. To prove the said factum, owner of the blue metals Thiru.Saravanan/P.W.3 has deposed to the effect that the deceased was working as driver and he was earning Rs.15,000/-. The date of accident was 14.07.2009. As for want of Salary Register, the salary certificate was not taken into consideration by the Tribunal. The driving licence of the deceased was marked as Ex.P.9.

7. The Hon'ble Supreme Court in the case of *Syed Sadiq, etc. Vs. Divisional Manager, United India Insurance Co. Ltd.*, reported in **2014 (1) TN MAC 459 (SC)**, has held that the monthly income of an injured Vegetable Vendor, aged 24 years, was fixed as Rs.6,500/- for the accident occurred in the year 2008. This Court feels fit to fix the income at Rs.9,000/- p.m., and as per law laid down by the Apex Court in *Sarla Verma & Others Vs. Delhi Transport Corporation* reported in **2009 (2) TN MAC 1 (SC)**, 1/3rd amount to be deducted for his personal and living expenses. The



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relevant multiplier to be adopted is 14. As regards the future prospects to be added while computing the income, in *National Insurance Co. Ltd. Vs. Pranay Sethi* reported in (2017) 2 TN MAC 609 (SC), it has been held that for the persons who are aged between 40 and 50 years and for persons who are self employed or on a fixed salary, 25% of the income to be added as future prospects while computing the monthly income. Based on the above said observations, the monthly income of the deceased is calculated as Rs.11,250/- (Rs.9,000/- + 25%=11,250/-).

8. As regards deduction for personal and living expenses in the above said case, it has been standardized as 1/3rd, if the number of family members are 1 to 3. Therefore, for loss of income, the following formula emerges- Rs.11,250(-) $\frac{1}{3}$ =Rs.7500/- X 12 X 14=Rs.12,60,000/-.

Age of the Appellant : 14 years

Monthly income fixed :Rs.7,500/-

Multiplier to be adopted : 14 m

Loss of Income :Rs.7500/-X12 X14=Rs.12,60,000/-.

That apart, an amount of Rs.15,000/- is granted for loss of estate. For Loss of Consortium to the wife of the deceased an amount of Rs.15,000/- is



granted in addition to the amount already granted and an amount of Rs.20,000/- is granted for loss of Love and Affection in addition to the amount already granted. Rs.3,000/- is granted for Funeral Expenses in addition to the amount already granted. Amount awarded under the head of ambulance is rejected. Therefore, the Compensation awarded by the Tribunal is reworked as tabulated below:

Sl. No.	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of Income	Rs.5,04,000/-	Rs.12,60,000/-	Enhanced
2	For Loss of Love and Affection	Rs.30,000/-	Rs.50,000/-	Enhanced
3.	For Funeral expenses	Rs.5,000/-	Rs.8,000/-	Enhanced
4	For Loss of Consortium to wife	Rs.25,000/-	Rs.40,000/-	Enhanced
5	For Loss of estate	---	Rs.15,000/-	Granted
6	For Ambulance Expenses	Rs.3,000/-		Rejected
		Rs.5,67,000/-	Rs.13,73,000/-	

The total compensation is arrived at Rs.13,73,000/-, out of which, wife of the deceased/first appellant is entitled to Rs.7,73,000/- and the daughter and



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son of the deceased/ 2nd and 3rd claimants are entitled to Rs.3,00,000/- each.

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9. In the result,

(i) The Civil Miscellaneous Appeal is **partly allowed**. No costs.

(ii) The compensation awarded by the Tribunal is enhanced from **Rs.5,67,000/- to Rs.13,73,000/-**.

(iii) The 3rd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., **Rs.13,73,000/-** (less the amount already deposited, if any) together with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of deposit to the credit of M.C.O.P.No.1151 of 2009 on the file of the Motor Accident Claims Tribunal, Dharapuram within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the 1st claimant is entitled to receive Rs.7,73,000/- and the 2nd and 3rd claimants are entitled to receive Rs.3,00,000/- each. The claimants are permitted to withdraw their shares



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along with interest and costs, less the amount if any already withdrawn, by making necessary cheque applications by the claimants before the Tribunal.

The claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Tribunal below shall disburse the enhanced amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

30.08.2023

Vv

To

1. The Motor Accident Claims Tribunal,
Dharapuram.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.



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R. KALAIMATHI,J.

Vv

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