



C.M.A.No.1612 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2023

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THE HON'BLE MRS.JUSTICE N.MALA

C.M.A.No.1612 of 2022

1.Chinnaponnu

2.Minor Kaviya

3.Minor Gowtham
(2 and 3 minor represented by
their mother Chinnaponnu)

4.Yasotha ... Appellants
vs.

1.Palaniammal

2.The United India Insurance Company Limited,
P.R.Sundaram Iyer Street,
Dharmapuri Town. ... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount made in Judgment and decree dated 05.04.2022 made in M.C.O.P.No.09 of 2019 on the file of



C.M.A.No.1612 of 2022

the Motor Accident Claims Tribunal and Special District Court for motor accident claims cases, Dharmapuri by allowing this Civil Miscellaneous Appeal.

For Appellants : Mr.SP.Yuvaraj
For R1 : No appearance
For R2 : Mr.D.Bhaskaran
* * * * *

J U D G M E N T

This Civil Miscellaneous Appeal is filed to enhance the compensation amount made in Judgment and decree dated 05.04.2022 in M.C.O.P.No.09 of 2019 on the file of the Motor Accident Claims Tribunal and Special District Court for motor accident claims cases, Dharmapuri by allowing this Civil Miscellaneous Appeal.

2.The appeal is filed by the claimants for enhancement of compensation.



C.M.A.No.1612 of 2022

6.Before the Claims Tribunal, the first respondent remained ex-parte and the claim petition was contested by the second respondent/Insurance company. The second respondent/Insurance Company filed a detailed counter denying all the averments made in the claim petition, apart from disputing the negligence, quantum and liability.

7.Before the Claims Tribunal, on the side of the claimants three witnesses were examined and Ex.P1 to Ex.P13 were marked in support of the claim. On the side of the respondents two witnesses were examined and no documents were marked.

8.The Claims Tribunal on an assessment of the entire evidence on record held that the accident occurred only due to the negligence of the driver of the first respondent. The claims tribunal assessed the compensation at Rs.17,40,000/- along with 7.5% interest and mulcted the liability on the second respondent/Insurance Company. Not satisfied with the award passed by the Claims Tribunal, the claimants have filed the above appeal for enhancement of compensation.



C.M.A.No.1612 of 2022

9.The learned counsel appearing for the appellant submitted that the assessment of notional income by the Tribunal was erroneous. According to the learned counsel the claimants had examined the employer of the deceased to prove the income of the deceased. The learned counsel submitted that in the light of the evidence of the employer and also considering that the deceased was doing several other jobs like milk vending and agriculture, the Claims Tribunal ought to have awarded fair and reasonable sum towards pecuniary loss.

10.The learned counsel appearing for the second respondent on the other hand submitted that the income assessed by the Tribunal was reasonable and that the award of the Tribunal was fair, just and reasonable and hence did not call for any interference in the appeal.

11.I have both the learned counsels and have perused the materials placed on record.

12.The learned counsel appearing for the appellants restricted his



C.M.A.No.1612 of 2022

arguments to the assessment of notional income alone. Though the claimants examined the employer no document was filed to prove the income. In any event considering that the deceased was maintaining a family of four members and as the accident took place in the year 2018, keeping in mind the cost of escalation for the year 2018, I am of the view that the notional income can be assessed at Rs.12,500/- per month. 40% of the income is added towards future prospects and 1/3 is deducted towards personal expenses of the deceased. The multiplier 15 appropriate to the age of the deceased is adopted. Therefore the compensation towards the pecuniary loss is fixed at Rs.23,62,500/- ($12,500 \times 40/100 = 5000$; $12500 + 5000 = 17500$; $17500 / 4 = 4375$; $17500 - 4375 = 13125$; $13125 \times 12 \times 15 = 23,62,500/-$).

13.It was fairly submitted by the learned counsel that on other heads the award of the Tribunal cannot be faulted, as the principles laid down by the Hon'ble Supreme Court in the case of *National Insurance Company Ltd., Vs. Pranay Sethi* reported in (2017) 16 SCC 680 were followed. Hence, the award under the other heads are confirmed. In the light of the



C.M.A.No.1612 of 2022

above discussion the award of the Tribunal is modified as follows:

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Sl.No.	Heads	Award of the Tribunal	Award of this Court
1	Compensation for pecuniary loss	Rs.15,12,000/-	Rs.23,62,500/-
2	Loss of spousal consortium for first petitioner	Rs. 40,000/-	Rs. 40,000/-
3	Loss of parental consortium for minor petitioners 2 and 3	Rs. 80,000/-	Rs. 80,000/-
4	Loss of filial consortium for 4 th petitioner	Rs. 40,000/-	Rs. 40,000/-
5	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
6	Funeral expenses	Rs. 15,000/-	Rs. 15,000/-
7	Medical expenses	Rs. 35,500/-	Rs. 35,500/-
8	Travel expenses	Rs. 2,500/-	Rs. 2,500/-
TOTAL		Rs.17,40,000/-	Rs.25,90,500/-

14.In the result, the claimant shall be entitled to Rs.25,90,500/- along with 7.5% interest. It is submitted by the learned counsel for the second respondent/Insurance company that the amount awarded by the Tribunal has already been deposited. Therefore, a direction is issued to the second respondent/Insurance company to deposit the balance enhanced amount



C.M.A.No.1612 of 2022

along with 7.5% interest, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made the claimants 1 & 4 shall be entitled to withdraw their respective shares as per the apportionment made by the Claims Tribunal by making proper application before the Claims Tribunal. As far as the Minors shares are concerned the same shall be kept in cumulative deposit in a Nationalised Bank till the minors attain majority.

15. Accordingly, this Civil Miscellaneous Appeal is partly allowed.

There shall be no order as to costs.

23.06.2023

Index : yes/no

Internet : yes/no

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To

1. The Motor Accident Claims Tribunal and
Special District Court for Motor Accident Claims Cases,
Dharmapuri.

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

8/9



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C.M.A.No.1612 of 2022

N.MALA, J.

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C.M.A.No.1612 of 2022

23.06.2023