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C.M.A.No.3329 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

**C.M.A.No.3329 of 2014
and
MP. Nos.1 /2014 & 1/ 2015**

M/s.New India Assurance Co., Ltd.,
Division Office,
No.45, Moore Street,
Chennai – 600 001.

.. Appellant

vs.

M. Arumugam (died)
1. Ms.A.Manimozhi
2.P.Murugan

.. Respondents

PRAYER: The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 03.07.2014 passed in MCOP.No.1418 of 2012 on the file of the Motor Accident Claims Tribunal/VI Judge/Small Causes Court, Chennai.

For Appellant : Mr.J.Chandran

For Respondents : Mrs.Subathra for R1
for Ms.M. Malar
Unclaimed - R2



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J U D G M E N T

This Civil Miscellaneous Appeal is preferred against the judgment and decree passed in MCOP.No.1418 of 2012 dated 03.07.2014 by the Motor Accident Claims Tribunal/VI Judge/Small Causes Court, Chennai.

2. The appellant/Insurance Company has filed this appeal questioning the quantum of compensation awarded by the Motor Accident Claims Tribunal.

3. Before the Tribunal, the claimant examined three witnesses as PW1 to PW3 and filed ten documents which were marked as Ex.P1 to Ex.P10. On the side of the appellant/Insurance Company, neither witness was examined nor document filed.

4. Heard the learned counsel for the appellant and learned counsel for the first respondent and perused the materials available on record.



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5. The learned counsel appearing on behalf of the appellant mainly contended that the Tribunal has awarded excess compensation under various heads and a sum of Rs.3,51,000/- was granted towards loss of dependency and in total, an amount of Rs.5,91,000/- was awarded by the Tribunal as compensation to the claimant. He further submitted that the Tribunal considering the delay of 4 days in lodging the FIR ought to have concluded the delay was to arrange mode, manner and vehicle to get compensation. It failed to note that there is no nexus to the death on 05.11.2012 for the injuries sustained on 19.01.2012. It ought not to have held that the death has any proximity with the injuries sustained in the accident. The reasoning of the Tribunal in awarding compensation of Rs.5,91,000/- is against the pleadings, facts, evidence unrealistic and against the well laid principles of law. The order under Section 170 of M.V. Act to contest the claim under Section 149 (2) of M.V.Act was granted by the Tribunal. At the outset, it is contended that the over all compensation granted by the Tribunal is exorbitant.

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6. The learned counsel appearing on behalf of the first respondent/claimant has submitted that the award of the Tribunal is just and reasonable and there is no excessive award and accordingly, the appeal is liable to be dismissed.

7. The accident occurred on 18.01.2012 at about 7.00 p.m., when the deceased was proceeding as a pedestrian at Viruthachalam to Jayamkondam main road, near Ramalingam House, Periyathukurichy from south to west towards his house. At that time, a motor cycle bearing Regn.No.TN-06-D-7221 ridden by its rider in a very rash and negligent manner which came behind and hit the pedestrian resulting in the fatal injuries. The second respondent is the owner and the appellant is the insurer of the motorcylce bearing Regn.No.TN-06-D-7221. Thereafter, the claim petition was filed. The Tribunal adjudicated the issues with reference to the documents and evidences produced by the respective parties and arrived at a conclusion that the accident occurred due to the rash and negligent driving



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of the motor cycle bearing Regn.No.TN-06-D-7221 belonging to the second respondent. Thus, the appellant/Insurance Company was directed to pay compensation of Rs.5,91,000/- to the claimant.

8. On perusal of the judgment of the Tribunal, it is seen that the compensation awarded by the Tribunal towards funeral expenses and love and affection are high in the considered view of this Court. As per the settled practice, the compensation towards funeral expenses is reduced from Rs.25,000/- to Rs.15,000/-. Similarly, the compensation towards love and affection is reduced from Rs.50,000/- to Rs.40,000/- by this Court. The Tribunal has erroneously failed to award any compensation towards loss of estate for which she is legally entitled to as per the settled practice. Accordingly, a sum of Rs.15,000/- is awarded under the said head.

9. A perusal of the award of the Tribunal would reveal that the compensation awarded under various other heads such as mental agony, transport, extra nourishment and damage to clothes are unwarranted. Hence

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this court is not inclined to grant any award under those heads and the same are set aside.

10. Insofar as the compensation under other heads such as loss of dependency, Attender charges and medical expenses are concerned, the assessment of the Tribunal are just and reasonable compensation and they do not call for any interference by this Court. Hence they are confirmed as such.

11. For the foregoing reasons, the compensation awarded by the Tribunal under the impugned award is reduced from Rs.5,91,000/- to **Rs.4,56,000/-** in the following manner:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Award Amount by this Court (Rs.)</i>
Loss of dependency	3,51,000/-	3,51,000/-
Funeral Expenses	25,000/-	15,000/-



<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Award Amount by this Court (Rs.)</i>
Love & Affection	50,000/-	40,000/-
Mental Agony	50,000/-	NIL
Transport	25,000/-	NIL
Attender charges	25,000/-	25,000/-
Medical Expenses	10,000/-	10,000/-
Extra Nourishment	50,000/-	50,000/-
Damage to clothes	5,000/-	NIL
Loss of Estate	NIL	15,000/-
Total	5,91,000/-	5,06,000/-

12. In the result,

(i) This appeal is partly allowed. Consequently, connected miscellaneous petitions are closed. No costs.

(ii) The appellant/Insurance Company is directed to deposit the abovesaid modified award amount, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date



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of receipt of a copy of this judgment to the credit of MCOP.No.1418 of 2012 on the file of the Motor Accident Claims Tribunal, VI Judge/Small Causes Court, Chennai. On such deposit, the Tribunal is directed to transfer the amount to the account of the claimant, within two weeks thereafter.

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Index : Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
gv



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To

1.The Motor Accident Claims Tribunal,
VI Judge/Small Causes Court, Chennai.

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



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