



C.M.A No.2470 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.2470 of 2023

1.Gunapushnam
2.Veerapathiran

... Appellants

Vs.

1.E.Anusuya

2.Royal Sundaram General Insurance Co.Ltd.,
Subramaniam Building, 2nd Floor,
No.1, Club House Road, Anna Salai,
Chennai-600 002.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, seeking to enhance the compensation amount made in judgment and decree dated 10.10.2023 made in MCOP.No.5983 of 2019 on the file of the Motor Accident Claims Tribunal Chief Judge, Small Causes Court, Chennai.



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For Appellants : Mr.V.Tamilamudhu

For Respondents : Mr.G.Vasudevan for R2

JUDGMENT

Aggrieved by the perceived inadequacy of the compensation awarded in an accident where the appellants have lost their son, they have approached this Court with this appeal.

2.Since the appellants preferred this appeal challenging the quantum awarded by the Tribunal, this Court considers that notice to the first respondent is not necessary.

3.On 17.10.2019 at about 11.40 hrs, the deceased Parthiban, aged about 30 years was walking from East to West direction at Guduvancheri, opposite to Kaathi Bavan, at that time, a tipper lorry bearing No.TN 19 AJ 8679 driven by its driver in a rash and negligent manner from Chennai to Chenglapet, dashed against the deceased. Due to which, the deceased sustained fatal injuries and died on the same day.



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4.The victim was working as a supervisor in certain M/s.Anandhi Stores and vide Ex.P13, salary certificate as proved by his employer, P.W.2, he was receiving Rs.20,000/- as monthly income. The Tribunal, however ignored the same on the ground that it is not a permanent employment and had fixed the monthly income of the victim notionally at Rs.15,000/-, to which it added 40% towards future prospects of increase in income, applied 16 as a multiplier and reduced the sum by half since the victim was a bachelor, and determined the compensation payable under the head 'loss of dependency at Rs.20,16,000/-. Including the compensation paid on other conventional heads, the Tribunal has passed an award for Rs.21,26,000/- and the breakup is as below:

Sl. No.	Description	Amount awarded by Tribunal (Rs)
1.	Loss of income / dependency (21,000 X 12 X 16 X 1/2)	20,16,000
2.	Loss of estate	15,000
3.	Loss of consortium Rs.40,000/- (each) x 2	80,000
4.	Funeral expenses	15,000
	Total	21,26,000



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WEB CONTENT

5. Heard Mr.V.Tamilamudhu, learned counsel for the appellants, and Mr.G.Vasudevan, learned counsel for the second respondent.

6. The learned counsel for the appellant submitted that there is no rationale for the Tribunal to ignore Ex.P13, salary certificate, more so when it was formally proved by P.W.2. Secondly, the Tribunal has also failed to increase the compensation payable under conventional heads by 10%, since the accident had taken place in 2019.

7. The learned counsel for the second respondent, the insurance company, however, submitted that the nature of the job does not guarantee any job security, and hence, it must be treated only as a temporary employment. Hence, the approach of the Tribunal is just and reasonable.

8. Weighing the rival consideration, this Court considers that what the claimants have established is the earning capacity of the victim at the time when he died. It does not matter if there is any job security for the employment, but what is more significant is whether the victim has a capacity to earn what he was earning. If job security has to be reckoned



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as a criterion, then except the workmen falling under the Industrial Disputes Act, 1947 or Government servants whose job is secured under Article 309 of the Constitution of India, no other job is secured.

9.This Court, therefore, chooses to act on Ex.P13, and reckons the monthly income of the victim to Rs.20,000/-, to which it adds 40% towards future prospects, applies 16 as a multiplier and reduces the same by 50% with the other 50% set aside for the personal expenditure of the victim and arrives at Rs.26,88,000/- as the compensation payable under the head 'loss of dependency'. The other conventional heads are also tinkered within the contours of law, and they are indicated as below:

Sl. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted
1.	Loss of dependency	Rs.20,16,000/-	Rs.26,88,000/- (28,000 x 12 x 16 x 1/2)	enhanced
2.	Loss of estate	Rs.15,000/-	Rs.16,500/- (10% added as per National Insurance Company Vs. Praney Sethi and others)	enhanced



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3.	Loss of consortium	Rs.80,000/-	Rs.88,000/- (40,000 each x 2) (10% added as per National Insurance Company Vs. Praney Sethi and others)	enhanced
4.	Funeral expenses	Rs.15,000/-	Rs.16,500/- (10% added as per National Insurance Company Vs. Praney Sethi and others)	enhanced
	Grand Total	Rs.21,26,000/-	Rs.28,09,000/-	enhanced by Rs.6,83,000/-

10.This appeal stands partly allowed, and the compensation is enhanced from **Rs.21,26,000/-** to **Rs.28,09,000/-**. The second respondent is now required to deposit the entire compensation amount with interest at 7.5% per annum from the date of the claim petition till the date of deposit, less any amount already deposited within a period of six (6) weeks from the date of receipt of a copy of this judgement. On such deposit being made, the appellants are permitted to withdraw the award amount, along with proportionate interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn. It is underscored that the appellants are also not entitled to any interest for 97 days which is a delay intervened in filing the appeal. The appellants are directed to pay the



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necessary Court Fee, if any, on the enhanced award amount. No Costs.

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The Motor Accident Claims Tribunal Chief Judge,
Small Causes Court, Chennai.

N.SESHASAYEE, J.

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