



C.M.A.No.422 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 19.06.2023

Judgment Pronounced on : **17.07.2023**

CORAM :

THE HON'BLE MRS.JUSTICE J.NISHA BANU
AND
THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.M.A.No.422 of 2021
and C.M.P.No.2718 of 2021

M/s.United India Insurance Company Limited,
No.134, 4th Floor, Motor Third Party Claims Hub,
Silingi Building, Greams Road,
Chennai - 600 006.

.. Appellant

Versus

1. V.Rani
2. Varadhan
3. V.Thulukanam

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.8026 of 2013, dated 10.02.2020 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Mrs.Harini
for M/s.M.B.Gopalan Associates

For Respondents : Mr.G.Venkateshwaramoorthy
for M/s.Vijayam Associates



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for RR-1 and 2

: No Appearance for R3

JUDGMENT

D.BHARATHA CHAKRAVARTHY, J.

This Civil Miscellaneous Appeal is directed against the award of the learned Motor Accidents Claims Tribunal, Chennai, II Small Causes Court, dated 10.02.2020 in M.C.O.P.No.8026 of 2013. Hereinafter, the parties are referred to as per their array in the Original Petition.

2. Parents of one *V.Roopan* are the claimants. The said *Roopan* was aged 26 years as of the year 2013 and was employed as an electrician, centering worker, labour and fisherman. While so, on 24.10.2013, the deceased, along with two others, were in the process of changing cable TV wires on an electrical post at S.N.Chetty street. While the deceased was on the ladder, an auto rickshaw, bearing registration No.TN 01 D 3513 belonging to the first respondent was driven in a rash and negligent manner. It hit the ladder, leading to falling of the deceased to the ground. He, sustained multiple grievous injuries. The deceased was taken to hospital and was pronounced as dead. Claiming that he was earning a sum of Rs.30,000/- per month, the present Original Petition was filed claiming a total sum of Rs.40,90,000/-.



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3. The claim was resisted by filing a counter-affidavit. Before the Trial Court, the first claimant was examined as **P.W.1** and one *Chandra*, the eye witness to the accident was examined as **P.W.2** and on behalf of the petitioners, **Exs.P-1** to **P-13** were marked. There was no oral or documentary evidence let in on behalf of the respondents.

4. The Trial Court, by taking the notional income as Rs.15,000/-, adding another 15% towards future prospects, deducting 50% for the personal expenses, adopting 17 multiplier, finally awarded a total sum of Rs.25,10,000/- which is as follows :

1. Loss of Dependency	: Rs.22,95,000.00
2. Loss of Love and Affection	: Rs. 1,00,000.00
3. Filial consortium	: Rs. 1,00,000.00
4. Funeral Expenses	: Rs. 15,000.00

Total : Rs.25,10,000.00

Aggrieved by the quantum, the present Appeal is filed.

5. Heard *Mrs.Harini*, learned Counsel for the appellant and *Mr.G.Venkateswaramoorthy*, learned Counsel for the respondents 1 and 2.



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6. *Mrs.Harini*, learned Counsel for the appellant, would submit that the accident happened in the year 2013 and therefore, fixing of notional income at Rs.15,000/- is on the higher side. She also would submit that the Trial Court had granted compensation on both heads of loss of love and affection and filial consortium which is incorrect in law.

7. Per *contra*, *Mr.G.Venkateswaramoorthy*, learned Counsel for the respondents 1 and 2, would submit that the deceased was aged only 26 years and was working as a centering worker as well as an electrician and even at the time of accident, it can be seen that he was only changing cable wires, by which, he was capable of earning atleast a minimum of Rs.15,000/-, if not Rs.30,000/- as claimed by them.

8. We have considered the rival submissions made on either side and perused the material records of the case. As far as the notional income is concerned, after considering the earlier judgment of this Court, in C.M.A.No.576 of 2022, we have held that in respect of the said period, a sum of Rs.15,000/- can be taken as notional income. Therefore, in that regard, we reject the submissions made by the learned Counsel for the appellant.



However, the calculation of compensation on the basis of such income is on the higher side and there are some errors by the Trial Court while awarding the compensation and therefore, to that extent, we interfere with the award of the Trial Court and the correct calculations, thereby, are as follows :

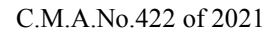
(i) Monthly income is Rs.15,000/-. Add 40% towards future prospects as the deceased is self-employed i.e., Rs.15,000/- + Rs.6,000/- = Rs.21,000/- - personal and living expenses as the deceased is bachelor, deducting 50%. Now, the monthly income is Rs.10,500/-;

(ii) Age of the deceased is 26 years. Therefore, the multiplier is 17 as laid in *Sarla Verma (Smt) and Ors. Vs. Delhi Transport Corporation and Anr.*¹. Therefore, the loss of dependency is Rs.10,500/- x 12 x 17 = Rs.21,42,000/-.

9. Therefore, the final compensation would be as follows :

Particulars	Compensation
A) Loss of earnings	Rs.21,42,000/-
B) Loss of Estate	Rs.15,000/-
C) Loss of Consortium (filial)	Rs.40,000/- x 2 = Rs.80,000/-
D) Funeral expenses	Rs.15,000/-
Total	Rs.22,52,000/-

¹ (2009) 6 SCC 121



(i) The award amount granted by the Tribunal is reduced from Rs.25,10,000/- to Rs.22,52,000/- and the appellants are directed to pay to the respondents / claimants a total sum of Rs.22,52,000/- with further interest at the rate of 7.5% per annum from the date of petition i.e., 20.12.2013 till the date of realisation and with costs;

(ii) The appellants shall deposit the balance compensation, deducting the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this order;

(iii) The respondents / claimants will be entitled to 50% each of the total compensation and they will be entitled to withdraw the entire amount along with accrued interest;

(iv) Consequently, connected miscellaneous petition is closed.

(J.N.B., J.)

(D.B.C., J.)

17.07.2023

Index : no
Speaking order
Neutral Citation : no
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To

WEB C
The Motor Accidents Claims Tribunal,
II Court of Small Causes, Chennai.



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**J.NISHA BANU, J.
AND
D.BHARATHA CHAKRAVARTHY, J.**

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Pre-Delivery Judgment in

C.M.A.No.422 of 2021

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