



C.M.A.No.2879 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Reserved on : 28.06.2023

Pronounced on : 24.08.2023

CORAM:

THE HONOURABLE Mrs.JUSTICE R.KALAIMATHI

C.M.A.No.2879 of 2021

1.Suresh
2.Janakidevi

... Appellants

vs.

1.S.Illayaraja

2.The Divisional Manager,
United India Insurance Co., Ltd.,
No.2, Sunitha Building,
Opp. to. OBLI Towers,
No.3, D.B.Road, R.S.Puram,
Coimbatore - 641 002.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 19.04.2021 made in M.C.O.P.No.230 of 2020 on the file of the Motor Accident Claims Tribunal / Special District Court (for MCOP Cases), Krishnagiri.



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For Appellants : Mr.S.P.Yuvaraj

For 2nd Respondent : Mr.D.Bhaskaran

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellants, challenging the Judgment and Decree dated 19.04.2021 made in M.C.O.P.No.230 of 2020 on the file of the Motor Accident Claims Tribunal and Special District Court, Krishnagiri for enhancement of compensation.

2. The claim petition was filed under Section 166 of the Motor Vehicles Act, claiming compensation of Rs.75,00,000/- for the death of one Bharathkishore, son of the appellants who died in the Motor Accident that took place on 11.09.2019.



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WEB COPY 3. The learned Tribunal, after hearing both sides arguments and upon appreciating the oral and documentary evidence has passed an award for an amount of Rs.13,19,600/- payable by the second respondent / Insurance Company herein.

4. The learned counsel appearing for the appellants would strenuously argue that the deceased was 19 years old and he was in the Second year pursuing his Engineering degree in Kumaraguru Engineering College at Coimbatore. The tribunal has fixed the income of the deceased at Rs.8000/- is very less and prayed for enhancement of compensation.

5. Per contra, the learned counsel appearing for the second respondent / Insurance Company would vehemently contend that the income of the deceased was fixed at Rs.8000/- and the total compensation arrived at, by the tribunal is in order and needs no interference. The following Judgment was referred to *Meena*



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Pawaia and Others -vs- Asraf Ali and others reported in 2021 SCC

OnLine SC 1083 in order to contend that the Hon'ble Supreme Court

has fixed the monthly income of deceased who was aged about 21 years and was doing third year B.E., degree, fixed the monthly income at Rs.14,000/- after adding future prospects for the accident that occurred in the year 2012. The following Judgment was also referred to *M.Mohammed Azharudin (deceased) 1. Mydeenkhan 2. Alipathu Beevi -vs- M.Rafee and another* reported in 2021(1) TN MAC 800 (DB). This Court in order to contend that fixed the income of the deceased who was a first year Engineering Student at Rs.25,200/- per month after adding 40% towards future prospects.

6. It is the evidence of P.W.1 father of the deceased that his son secured 1115 marks in XII Standard as per Ex.P5 (XII mark sheet of the deceased). It could be seen from Ex.P6 Course Completion Certificate issued by Kumaraguru Engineering College that he pursued Engineering Course. The deceased was 19 years old at the relevant point of time. It is the normal expectation and the



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expectation of the parent that had their son was alive, he would have earned good salary. Therefore, this Court deems fit to fix the monthly income at Rs.18,000/-. The date of accident is 11.09.2019. The relevant multiplier to be adopted is 18 as per the law laid down by the Hon'ble Supreme Court in *Sarala Varma -vs- Delhi Transport Corporation and another, reported in 2009(2) TNMAC 1 (SC)*. In case of persons who are not in permanent job for the age group of persons below 40 years, 40% as future prospects to be added while computing the income. The Hon'ble Supreme Court has standardized the details of personal and living expenses in case of bachelor 50% has to be deducted for personal and living expenses of the deceased. Based on the aforesaid observations following formula emerges justity:

$$= \text{Rs.18,000/-} + \text{Rs.7200/-}$$

$$= \text{Rs.25,200/-} \times 1/2$$

$$= \text{Rs.12,600/-} \times 18 \times 12$$

$$= \text{Rs.27,21,600/-}$$



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WEB COPY 7. In all other aspects the award passed by the learned Tribunal appears to be reasonable and needs no interference. The compensation as awarded is reworked and tabulated as follows:

<i>Sl. No.</i>	<i>Description</i>	<i>Amount awarded by Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed or enhanced or granted or reduced</i>
1	Loss of Dependency	Rs.12,09,600	Rs.27,21,600	Enhanced
2	Loss of Estate	Rs.15,000	Rs.15,000	Confirmed
3	Funeral expenses	Rs.15,000	Rs.15,000	Confirmed
4	Loss of Consortium	Rs.80,000	Rs.80,000	Confirmed
	Total	Rs.13,19,600/-	Rs.28,31,600/-	Enhanced

8. In the result,

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



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(ii) The compensation awarded by the Tribunal is enhanced from **Rs.13,19,600/-** to **Rs.28,31,600/-**.

(iii) The 2nd respondent / Insurance Company is directed to deposit the enhanced compensation amount i.e., **Rs.28,31,600/-** (less the amount already deposited if any) together with interest at the rate of 7.5% per annum **from the date of numbering of the petition** till the date of deposit to the credit of M.C.O.P.No.230 of 2020 on the file of the Motor Accident Claims Tribunal, Chennai (Special District Court, Krishnagiri), within a period of *eight weeks* from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the appellant / claimant is at liberty to withdraw the same on filing of cheque petition. The claimant is 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.

24.08.2023

Index : Yes/No



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Speaking / Non-speaking order
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To

1. The Motor Accident Claims Tribunal,
(Special District Court), Krishnagiri.
2. The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.



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R.KALAIMATHI, J.,

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