



C.M.A.No.2883 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on :10.01.2023

Judgment Pronounced on :23.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2883 of 2022

1.Mangammal
2.C.Veeramani
3.Vignesh
4.Bharath

... Appellants

vs.

1.V.Balu
2.The Branch Manager,
Shriram General Insurance Company Ltd.,
D.No.10003-E&RIPCO Industrial Area,
Sitapura, Jaipur, Rajasthan – 302 022.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, aggrieved by the judgment and decree dated 22.12.2014 made in M.C.O.P.No.486 of 2013 on the file of the Motor Accident Claims Tribunal, Special District Court at Krishnagiri.

For Appellants : M/s.Mukund R.Pandiyan

For R2 : Mr.K.Poomalai



C.M.A.No.2883 of 2022

JUDGMENT

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Claimants have filed this Civil Miscellaneous Appeal aggrieved by the judgment and decree dated 22.12.2014 made in M.C.O.P.No.486 of 2013 on the file of the Motor Accident Claims Tribunal, Special District Court at Krishnagiri.

2. The claimants are the appellants herein, seeking enhancement of compensation.

3. The appellants would submit that the Tribunal even after fixing the entire liability on the respondents has awarded very less amount as compensation and would further state that at the time of the accident, the deceased was working as JCB Driver and his monthly income was Rs.10,000/- and without considering the same, the Tribunal has fixed a sum of Rs.6000/- as his monthly income. The future prospects should be atleast 35% of the monthly income taking into consideration of the fact that the deceased was only 45 years' old at the time of death. Further, it is submitted that the compensation awarded towards compensation 'loss of love and affection', 'Transportation expenses' and 'funeral expenses' are only meagre. The appellants would also state that the rate of interest awarded by the Tribunal is only 6% and has requested



C.M.A.No.2883 of 2022

enhancement of the same. In fine, the appellants has come forward with this C.M.A to enhance the compensation awarded by the Tribunal to a sum of Rs.15 lakhs.

4. The learned counsel for the respondent would submit that the deceased was a driver at the time of the accident and the Tribunal has correctly fixed his monthly salary as Rs.10000/- and the compensation awarded under other heads are also correct and the said award requires no modification.

5. The date of the accident is 08.06.2012. Since at the time of accident, the deceased was earning a monthly income of Rs.10000/-, and considering the fact that the deceased was holding a valid license and was working as a driver and also doing sensational business in daily sandai, it is appropriate to fix his monthly income as Rs.9,000/-. The future prospects of the deceased is fixed at 40% as he was only 45 years' old at the time of accident. Therefore, his monthly income is fixed at Rs.12,600/- (9000 + 3600). Now, applying the principle as laid down in ***Sarla Verma & Others .Vs. Delhi Transport Corporation & another***, reported in ***2009 (2) TNMAC 1 (SC)***, a sum of Rs.3150 (12600*1/4) is deducted towards personal expenses of the deceased and his monthly



C.M.A.No.2883 of 2022

contribution to the family is fixed at Rs.9450/- (12600-3150), as the dependents of the deceased are four in number.

6.At the time of the accident, the age of the deceased is 45 years and therefore the proper multiplier would be '14' and hence the pecuniary loss sustained by the claimants is re-assessed as follows:

$$(Rs.9450 \times 12 \times 14 = Rs.15,87,600/-)$$

7.The claimants are entitled for a sum of Rs.1,20,000/- towards loss of love and affection, Rs.5,000/- towards funeral expenses, Rs.40,000/- towards loss of consortium for the first petitioner and Rs.10,000/- towards transportation.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	15,87,600
2	Loss Love and affection	1,20,000
3	Funeral expenses	5,000
4	Loss of Consortium for the first petitioner who lost her husband in the rest of her life.	40,000
5	Transportation	10,000
	Total Compensation	17,62,600

8. In total, the claimants are entitled to a sum of Rs.17,62,600/- (Rupees seventeen lakh sixty two thousand and six hundred only) with interest at the rate of 7.5% per annum from the date of Petition till date of realisation.



C.M.A.No.2883 of 2022

9. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed with interest at the rate of 7.5% per annum from the date of petition till the date of realisation enhancing the award amount from Rs.8,96,000/- to Rs.17,62,600/- to the extent indicated above.

(ii) the 2nd Respondent/Insurance Company is directed to deposit the award amount of Rs.17,62,600/-, with interest and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made the claimants are permitted to withdraw the entire amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) The appellant/claim Petitioner is directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

(v) There shall be no order as to costs.

23.01.2023

nvi



C.M.A.No.2883 of 2022

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation : Yes / No

To

1. The Motor Accident Claims Tribunal,
Special District Court at Krishnagiri.

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



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C.M.A.No.2883 of 2022

RMT.TEEKAA RAMAN, J.,

nvi

Pre-delivery Judgment in
C.M.A.No.2883 of 2022

23.01.2023