



C.M.A.No.2723 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 03.01.2023	Pronounced on 06.01.2023
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2723 of 2022

- 1.Rajeswari
- 2.Chitra
- 3.Prameela
- 4.Selvam

All are residing at No.7, K.C.Garden 3rd Street,
Peravalur, Chennai 600 082.

... Appellants

Vs.

1.Hajira Begum,
Old No.12/2, New No.27,
Thilai Nayagam, 5th Lane,
Perambur, Chennai 600 011.
(R1 already set exparte in lower Court)

2.United India Insurance Co. Ltd.,
Motor III party claims office,
No.134, Shilling Building,
Greams Road, Chennai 600 006.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the order and decretal order dated 07.06.2019 in MCOP.No.3691 of 2017 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.



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For Appellants : Ms.Y.Jayanthi Bhaskar
for Mr.J.Mahalingam

For Respondents : Ms.R.Sree Vidhya (for R2)

J U D G M E N T

The Appeal has been filed against the order and decreetal dated 07.06.2019 made in MCOP.No.3691 of 2017, on the file of the Motor Accident Claims Tribunal, II Judge, Court of Small Causes, Chennai.

2.The claim Petitioners are the Appellants herein, seeking enhancement of compensation awarded in MCOP.No.3691 of 2017. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The legal representatives of the deceased Veeraraghavan filed MCOP.No.3691 of 2017, seeking compensation for the death of husband of the 1st claim Petitioner and filed this Appeal on the point of quantum. The factum and manner of the accident are not under challenge.



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4. During the trial, on the side of the claim Petitioners, PW1 to PW4 were examined & Ex.P.1 to Ex.P.16 were marked and on the side of the Respondents, RW1 was examined and Ex.R.1 to Ex.R.4 were marked.

5. Heard the learned counsel appearing on behalf of the claim Petitioners and the learned counsel appearing on behalf of the Insurance Company.

6. The deceased was aged 70 years, at the time of the accident. Date of the accident is 24.03.2017. On the date of accident, the deceased is said to have been engaged himself in ironing work and alleged to have earned a sum of Rs.600/- per day. As per the judgment of the Hon'ble Supreme Court in the case of *Sarla Verma & Others .Vs. Delhi Transport Corporation & another*, reported in **2009 (2) TNMAC 1 (SC)**, right multiplier is “5” for the age of the deceased and the same is rightly adopted by the Tribunal. However, the Tribunal has fixed the monthly income at Rs.3,500/-, the same is enhanced to Rs.6,000/-. Since the age of the deceased is 70 years, he is not entitled for future prospects. The number of dependants of the deceased is 4, therefore, 1/4th has to be deducted towards personal expenses of the deceased and hence,



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the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$\text{Rs.}6000 \times 12 \times 5 \times \frac{3}{4} = \text{Rs.}2,70,000/-$$

7.The 1st claim Petitioner as a wife of the deceased is entitled for Rs.40,000/- towards loss of consortium. The Tribunal has awarded a sum of Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral expenses and Rs.40,000/- each towards loss of love and affection to the claims Petitioners 2 to 4, which are just and proper and the same are hereby confirmed.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	270000
2	Loss of consortium	40000
3	Loss Love and affection	120000
4	Funeral expenses	15000
5	Loss of Estate	15000
	Total Compensation	460000

In total, the claim Petitioners are entitled to a sum of Rs.4,60,000/- (Rupees four lakh and sixty thousand only) and the interest awarded by the Tribunal at the rate of 7.5% per annum is also confirmed.



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8. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.3,48,000/- to Rs.4,60,000/- to the extent indicated above. No Costs.

(ii) the 2nd Respondent/Insurance Company is directed to deposit the enhanced award amount, with interest and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order and recover the same from the 1st Respondent.

(iii) on such deposit being made, all the claim Petitioners/Appellants are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The claim Petitioners are permitted to withdraw their entire share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal.

(iv) the claim Petitioners are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree



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only after the receipt of Court fee.

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06.01.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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To

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



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated:06.01.2023