



C.M.A.No.1967 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1967 of 2020

1.Saroja

2.Minor Logapriya

Minor appellant represented by her
grandmother and natural guardian

1st appellant Saroja

... Appellants

Vs.

1.V.T.Dinesh Kumar

2.ICICI Lombard General Insurance Company Ltd.,
No.140, 2nd and 3rd Floor,
Cottabai Centre,
Nungambakkam High Road,
Nungambakkam,
Chennai – 600 034.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the above civil miscellaneous appeal and enhance the award passed in judgment and decree dated 10.03.2020 made in M.C.O.P.No.120 of 2018 on the file of the Motor Accidents Claims Tribunal, II Additional District and Sessions Court, Ranipet, Vellore District.



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For Appellants : Mr.M.Sivakumar

For Respondents : R1 – No appearance for R1
Mr.B.Sivakollappan for R2

J U D G M E N T

The petitioners before the Motor Accidents Claims Tribunal are the appellants herein. This appeal has been filed seeking to set aside the order dated 10.03.2020 passed by the Motor Accidents Claims Tribunal, II Additional District and Sessions Court, Ranipet, Vellore District, in M.C.O.P.No.120 of 2018.

2.The brief facts of the case is that on 06.08.2017 at about 14.00 hours, the deceased Ravichamdran was riding a two wheeler Bajaj Discover bearing Registration No.TN 73 B 9886 in Chennai to Bangalore National Highways Road near Nandiyalam Arjunappa Street Junction. At that time, the driver of the Benz Car bearing Registration No.KA 12 P 9508 owned by the first respondent and insured with the second respondent came on the backside of the two wheeler in a rash and negligent manner and hit against the two wheeler, due to which, the deceased died on the way to hospital.

3.Thereafter, the dependants of the deceased/ appellants filed



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claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.32 Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.11,03,220/- as compensation to the claimants/ appellants with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of realization and directed the second respondent to pay the compensation. Aggrieved by the same, the appellants have filed this appeal for enhancement of compensation.

4.The learned counsel appearing for the appellants submitted that the first appellant is the mother of the deceased and the second appellant is the daughter of the deceased and further submitted that the deceased was drawing pension of Rs.19,165/- per month and the second appellant/ daughter of the deceased is entitled for 50% of the pension amount and the same was not taken into consideration by the Tribunal and the amount awarded is also very meagre and prayed for enhancement in compensation.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the wife of the



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deceased

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predeceased the deceased and the minor second appellant is entitled for 50% of the pension till the age of 25 years, however, the pension drawn by the deceased was not established by the appellants before the Tribunal while awarding compensation and the amount awarded by the Tribunal under the other heads are just and reasonable.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

7.The accident and the manner in which the accident happened are not disputed. The negligence aspect is also not in dispute. The appeal has been filed only questioning the quantum of compensation.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.9,68,220/- for loss of dependency, Rs.15,000/- for funeral expenses, Rs.1,00,000/- (50,000/- each) for loss of love and affection, Rs.5,000/- for transportation to the hospital and for taking the body, Rs.15,000/- for loss of estate and arrived at a total



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compensation of Rs.11,03,220/- with interest at the rate of 7.5% p.a.

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from the date of filing of the petition till the date of realization and costs.

9.Perusal of records reveal that the deceased was a retired army personal and was drawing pension of a sum of Rs.19,165/- per month and after his retirement, he was working as a Security in Qmax Security and Training Academy. Considering the fact that the deceased was working as a Security in Qmax Security and Training Academy from 01.04.2010 to 03.08.2017, the Tribunal fixed the monthly salary of the deceased at Rs.10,000/- p.m. and added a sum of Rs.1,000/- towards future prospects and by adopting multiplier 11, awarded a sum of Rs.9,68,220/- for loss of dependency, however, the Tribunal failed to consider that the daughter of the deceased is entitled for 50% of the pension and failed to add the same while awarding compensation.

10.Hence, this Court adds 50% of the pension amount with the monthly salary of the deceased fixed by the Tribunal and the amount works out to Rs.19,582/- [50% of Rs.19,165/- = Rs.9,582.5 rounded



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off to Rs.9,582/-. $\text{Rs.9,582/-} + \text{Rs.10,000/-} = \text{Rs.19,582/-}$] and after deducting $\frac{1}{3}$ of the amount towards his personal expenses, the amount works out to Rs.13,055/- [$\frac{1}{3}$ of Rs.19,582/- = Rs.6,527.3 rounded off to Rs.6,527/-. $\text{Rs.19,582/-} - \text{Rs.6,527/-} = \text{Rs.13,055/-}$]. This Court is inclined to award future prospects separately. The deceased was aged 52 years at the time of death and the Tribunal has rightly adopted the multiplier 11. Hence, the actual loss of dependency works out to Rs.17,23,260/- [$\text{Rs.13,055/-} \times 12 \times 11 = \text{Rs.17,23,260/-}$]. This Court awards 10% of actual loss of dependency for future prospects, which comes to Rs.1,72,326/- [10% of Rs.17,23,260/- = Rs.1,72,326/-].

11.The amount awarded for loss of love and affection, in the opinion of this Court, is high and this Court is inclined to reduce the amount awarded under the said head. Accordingly, the amount awarded for loss of love and affection is reduced to Rs.80,000/- [Rs.40,000/- each] from Rs.1,00,000/-. The amount awarded for funeral expenses and loss of estate, in the opinion of this Court are just and reasonable and the same are confirmed. However, the amount awarded for transportation to the hospital and for taking the body, in the opinion of this Court, is not necessary and the same is



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deleted.

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12. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of dependency	Rs. 9,68,220/-	Rs.17,23,260/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
3.	Loss of love and affection	Rs. 1,00,000/-	Rs. 80,000/-
4.	Transportation to the hospital and for taking the body	Rs. 5,000/-	---
5.	Future prospects 10%	---	Rs. 1,72,326/-
6.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
	Total	Rs.11,03,220/-	Rs.20,05,586/-

13. The appellants are entitled to total compensation of Rs.20,05,586/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of realization, out of which, the first appellant is entitled to a sum of Rs.5 Lakhs and the second appellant is entitled to a sum of Rs.15,05,586/-.

14. The civil miscellaneous appeal is partly allowed. The judgment and decree dated 10.03.2020 made in M.C.O.P.No.120 of 2018 by the Motor Accidents Claims Tribunal, II Additional District and Sessions Court, Ranipet, Vellore District, is modified to the above extent.



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15.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited.

16.On such deposit being made, the first appellant is permitted to withdraw her share as apportioned by this Court, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal. The second appellant is permitted to withdraw her share as apportioned by this Court, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to her majority. If the second appellant is still minor, her share shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until she attain majority and the interest derived from out of the said share of the minor shall be paid to the first appellant/ grandmother every quarter to be utilized for the welfare of the said minor.



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17.The appellants are not entitled to any interest for the period of delay, if any, in filing the appeal. The appellants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, II Additional District and Sessions Court, Ranipet, Vellore District, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants.

18.The civil miscellaneous appeal is partly allowed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
II Additional District and Sessions Court,
Ranipet, Vellore District.



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M.DHANDAPANI,J.
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