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C.M.A.No.1932 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1932 of 2020

- 1.Kamala
- 2.Ramesh Aravind @ Ramesh
- 3.Raghul

Papathy (since died)

... Appellants

Vs.

- 1.S.Vanitha

(Since R1 remained exparte before Tribunal
her presence may be dispensed with)

- 2.The United India Insurance Company Limited,
No.134, Silingi Building, (MACT Claim),
Greams Road,
Chennai – 6.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award dated 19.11.2019 and made in M.A.C.T.O.P.No.4660 of 2016 on the file of the Motor Accidents Claims Tribunal, the (Special Sub Court No.1, Motor Accidents Claims Petitions) Small Causes Court, Chennai.



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For Appellants : Ms.A.Subadra
for M/s.K.M.Ramesh

For Respondents : R1 – Exparte
Mr.MJ.Vijayaraghavan for R2

J U D G M E N T

This appeal has been filed by the appellants/ claimants challenging the award passed in M.C.O.P.No.4660 of 2016 dated 19.11.2019 on the file of the Motor Accidents Claims Tribunal, the (Special Sub Court No.1, Motor Accidents Claims Petitions) Small Causes Court, Chennai.

2.The brief facts of the case is that on 07.06.2016 at about 07.40 p.m., the deceased Bose was walking at Padiyanallur, GNT Salai near Veerama Kali Amman Koil from East to West direction. At that time, the driver of the motorcycle bearing Registration No.TN-20-AA-3175 drove the vehicle in a rash and negligent manner and dashed against the deceased Bose, due to which, the deceased lost his life.

3.Thereafter, the wife and children of the deceased Bose/ appellants/ claimants filed claim petition before the Motor Accidents



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Claims Tribunal, claiming a sum of Rs.25 Lakhs as compensation.

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Papathy is the mother of the deceased/ fourth petitioner in the claim petition and she had died on 27.06.2018 during the pendency of the claim petition. After adjudication, the Tribunal awarded a sum of Rs.12,45,000/- as compensation along with interest at the rate of 7.5% per annum from the date of filing of the claim petition i.e., 22.07.2016 till the realization and costs. Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants submitted that the appellants have filed this appeal questioning the quantum of compensation. The learned counsel further submitted that the Tribunal has awarded compensation, which is very meagre. Hence, the appellants are entitled for enhancement in compensation.

5.The learned counsel appearing for the second respondent Insurance Company submitted that the amount awarded by the Tribunal is just and reasonable and warrants no interference.



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6.Heard the learned counsel appearing for the appellant as well

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as the learned counsel appearing for the second respondent and perused the materials available on record.

7.The accident and the manner in which the accident happened are not disputed. The only dispute is with regard to the quantum of compensation awarded by the Tribunal.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.11,20,000/- for loss of dependancy, Rs.40,000/- for loss of consortium, Rs.50,000/- for loss of love and affection, Rs.15,000/- for loss of estate, Rs.5,000/- for transport charges, Rs.15,000/- for funeral expenses and arrived at a total compensation of Rs.12,45,000/- with interest at the rate of 7.5% p.a. from the date of filing of the claim petition i.e., 22.07.2016 till the realization.

9.The Tribunal has rightly fixed the notional monthly income of the deceased as Rs.8,000/-, which in the opinion of this Court is low and this Court fix the notional monthly income of the deceased as Rs.12,000/- and after deducting 1/3 towards his personal expenses,



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the amount comes to Rs.8,000/-. The Tribunal had rightly adopted the

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multiplier 14 and has awarded the amount towards loss of dependency by adding 25% for future prospects. In the opinion of this Court, 40% has to be awarded for future prospects and this Court is inclined to award the amount for future prospects separately. Accordingly, the amount awarded towards loss of dependency works out to Rs.13,44,000/- [Rs.8,000/- X 12 X 14 = Rs.13,44,000/-]. This Court awards 40% of the loss of dependency towards future prospects which comes to Rs.5,37,600/-.

10.The amount awarded under the head loss of love and affection, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded for love and affection is enhanced to Rs.80,000/- from Rs.50,000/-. The amount awarded under the heads funeral expenses, loss of estate and loss of consortium, in the opinion of this Court are just and reasonable and the same are confirmed. The amount awarded under the head transport charges, in the opinion of this Court is not necessary and the same is deleted.



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11. 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.11,20,000/-	Rs.13,44,000/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
3.	Loss of love and affection	Rs. 50,000/-	Rs. 80,000/-
4.	Transport charges	Rs. 5,000/-	---
5.	Loss of Consortium	Rs. 40,000/-	Rs. 40,000/-
6.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
7.	Future Prospects	---	Rs. 5,37,600/-
	Total	Rs.12,45,000/-	Rs.20,31,600/-

12. The claimants are entitled to total compensation of Rs.20,31,600/-, along with interest at the rate of 7.5% p.a. from the date of filing of the claim petition i.e., 22.07.2016 till the realization, out of which, the first appellant is entitled to 60% of the compensation amount and the appellants 2 and 3 are entitled to 20% each of the compensation amount.

13. The civil miscellaneous appeal is partly allowed. The award made in M.C.O.P.No.4660 of 2016 dated 19.11.2019 by the Motor Accidents Claims Tribunal, the (Special Sub Court No.1, Motor



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Accidents Claims Petitions) Small Causes Court, Chennai, is modified to the above extent. No costs.

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14.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. On such deposit being made, the appellants/ claimants are permitted to withdraw their respective share as apportioned by this Court, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, the (Special Sub Court No.1, Motor Accidents Claims Petitions) Small Causes Court, Chennai, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

14.12.2023

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

M.DHANDAPANI,J.
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To

- 1.The Motor Accidents Claims Tribunal,
(Special Sub Court No.1, Motor Accidents Claims Petitions)
Small Causes Court, Chennai.

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