



CMA.No.1523 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2023

CORAM: JUSTICE N.SESHASAYEE

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1.Shanthi
2.Rajendiarn
3.R.Karthi

... Appellants

-Vs-

1.C.Palanisamy

2.M/s.IFFCO-TOKIO General
Insurance Company Limited,
IFFCO Sadan, C1 distt,
Saket, New Delhi – 110 017,
Its Service office at No.143,
Vinayagar Complex,
2nd floor, opp TVS Show room,
Erode, Tamilnadu, India – 636 011.

...Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 02.06.2016 made in M.C.O.P.No.1730 of 2014 on the file of the Motor Accident Claims Tribunal, Salem Additional District Court and Special Court Essential Commodities Act, Salem.



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For Appellant : Mr.M.Arun
for M/s.Karan and Uday
For R1 : Notice D/w Vide order dt.11.10.2023
For R2 : Mr.S.Arunkumar

JUDGMENT

In a road accident that took place on 16.09.2014, a certain Gobi died. At the relevant time when the accident took place, Gobi was riding a motorcycle when he was fatally knocked down by a lorry belonging to the first respondent and insured with the second respondent. He was moved to the hospital and he was declared dead by the hospital.

2. Seeking compensation, the parents and brother of the victim had approached the Tribunal. The victim was 25 years old at the relevant time when he died and he was stated to be working as a sales representative in a sales wing under a two wheeler dealer. He was also stated to be earning Rs.15,000/- per month. However, except a certificate issued under the letter pad of the employer of the victim, no other material was produced before the Tribunal. In these circumstances, the



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Tribunal had reckoned his income at Rs.10,000/-, but did not make any provision for future prospects, applied a multiplier of 18 and reduced the income by half to arrive at a loss of dependency at Rs.10,80,000/- and the details of the award are as below:

Sl.No.	Heads	Amount awarded by the Tribunal
1.	Loss of income	Rs.10,80,000/-
2.	Transport expenses	Rs.20,000/-
3.	Funeral expenses	Rs.25,000/-
4.	Damages to cloths	Rs.1,000/-
5.	Loss of love and affection	Rs.75,000/-
	Total	Rs.12,01,000/-

Aggrieved by the inadequacy of the amount awarded by the Tribunal, the claimants are before this Court with this appeal.

3.The learned counsel for the appellants submitted that the Tribunal's award is erroneous on two grounds;

- a) that it failed to include future prospects in assessing loss of dependency;
- b) that it has not awarded compensation in terms of the parameters set



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for loss of love and affection.

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4.The learned counsel for the second respondent submitted that the third claimant, who is the brother of the victim was 19 years old at the time of the accident and cannot be treated as a dependent and also submitted that what the Tribunal has awarded is fair and reasonable.

5.This Court finds merit in the submissions of the learned counsel for the appellants on both the grounds. This Court considers it appropriate to fix the notional monthly income of the victim at Rs.10,000/- per month and adding another 40% to it towards future prospects and applying 18 as the multiplier and reducing it by half, since the victim was a bachelor and the other half is set aside towards his personal expenditure, the net value of compensation under the head 'loss of dependency' is arrived at Rs.15,12,000/-. Towards loss of love and affection, this Court considers it appropriate to award Rs.1,20,000/- as against Rs.75,000/- as awarded by the Tribunal. The compensation now awarded is as below;



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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	10,80,000/-	15,12,000/- -	Enhanced
2.	Transport expenses	20,000/-	20,000/-	Confirmed
3.	Funeral expenses	25,000/-	25,000/-	Confirmed
4.	Damages to clothes	1,000/-	1,000/-	Confirmed
5.	Loss of love and affection	75,000/-	1,20,000/-	Enhanced
	Grand Total	12,01,000/-	16,78,000/- -	Enhanced by 4,77,000/-

6.In the result, the appeal is allowed and the compensation amount amount is enhanced from Rs.12,01,000/- to 16,78,000/- together with interest at 7.5% per annum from the date of petition till the date of deposit. This Court is informed that the second respondent/insurance company has already deposited the sum as awarded by the Tribunal. It is



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now directed to deposit the differential sum, along with interest, less the interest payable for 1281 days within a period of six (6) weeks from the date of receipt of a copy of this order. The enhanced portion of the compensation is required to be apportioned in the same ratio in which the Tribunal has apportioned the compensation. On such deposit, the appellants are permitted to withdraw the award amount, now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. The appellants are directed to pay the necessary Court Fee, if any, on the enhanced award amount. No costs.

20.11.2023

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To

- 1.The Motor Accident Claims Tribunal, Salem
Additional District Court and Special Court
Essential Commodities Act, Salem.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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N.SESHASAYEE, J.,

Tsg

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