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C.M.A No.2768 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A. No.2768 of 2023

1.S.Mahalakshmi (minor)
2.S.Nandhini (minor)
3.Naveen (minor) ... Appellant
(Minors 1 to 3 are represented by their
grandmother and natural guardian G.Selvi)

Vs.

1.G.Loganathan
2.ICICI Lombard General Insurance Co. Ltd.,
TP Investigation, 1st Floor
No.84 & 85, Waltax Road
Arihant Plaza, Chennai - 600 003 ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P. No.6471 of 2017 dated 27.09.2022 on the file of Motor Accidents Claims Tribunal/II Court of Small Causes, Chennai.

For Appellant : Mrs.Ramya V. Rao

For Respondents : Mrs.R.Sreevidhya for R2
R1 - Dispensed With



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JUDGMENT

The claimants in M.C.O.P. No.6471 of 2017 on the file of Motor Accidents Claims Tribunal/II Court of Small Causes, Chennai, are the appellants herein. They seek enhancement of compensation for the fatal accident where they lost their mother.

2. On 01.08.2017 while Rajeswari was travelling as a pillion rider in a two wheeler driven by her husband, the said vehicle fell in to a drainage in which she sustained injuries all over the body and the death has occasioned due to head injuries, since the victim was not wearing helmet at the relevant time.

3. Seeking compensation, the children of the victim had approached the Tribunal, which had determined the compensation. The Tribunal has reckoned the monthly income of the victim notionally at Rs.8,000/- to which it added another 40% towards future prospects of the increase in income of the victim and applied '16' as the multiplier, since the victim was aged 33 years at the relevant time, from which it deducted 1/3rd towards personal expenditure of the victim and arrived at the net value of loss of dependency at Rs.14,33,600/-.



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After providing for other conventional heads of compensation, the Tribunal arrived at a total compensation of Rs.15,98,600/- from which, it deducted 10% towards contributory negligence on the part of the victim for not wearing the helmet and arrived at the net compensation at Rs.14,38,740/-. The break-up details is as below:

1. Loss of dependency	: Rs.14,33,600/-
2. Loss of consortium	: Rs. 1,32,000/-
3. Loss of Estate	: Rs. 16,500/-
4. Funeral Expenses	: Rs. 16,500/-

Total	: Rs.15,98,600/-

Less 10% contributory negligence committed by the deceased	: Rs. 1,59,860/-

	: Rs.14,38,740/-

4. Aggrieved by the inadequacy of the compensation, the claimants are now before the court.



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5. Heard both sides and perused the materials available in the form of typed set of papers.

6. The learned counsel for the appellant submitted that the victim was barely 33 years old and the children are at their tender age and her contribution to those children vis-a-vis in care and growth, besides love and affection has not been valued realistically. Her only prayer is that the notional income as provided, may suitably be increased.

7. After weighing the rival submissions, this court deems it appropriate to fix Rs.12,000/- as monthly notional income for the victim to which it adds another 40% for future prospects and '16' as the multiplier and reducing it by 1/3rd towards personal expenditure of the victim and arrived at the net value of loss of dependency at Rs.21,50,400/-. Retaining the other heads of compensation, the total amount arrived would be Rs.23,15,600/- from which a further 10% deduction is made towards contributory negligence of the victim. In fine, the appellants are found to be entitled to a sum of Rs.20,83,860/- and the same is rounded off to Rs.20,84,000/-.



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8. To conclude, this appeal is allowed and the compensation payable is enhanced from Rs.14,38,740/- to Rs.20,84,000/-. The respondent has already deposited the compensation amount as awarded by the Tribunal and it is now required to deposit the differential sum with interest @ 7.5% less interest for 82 days delay in preferring the appeal, within a period of six weeks from the date of receipt of a copy of the judgment. No cost.

12.12.2023

Asr

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The Motor Accidents Claims Tribunal/
II Court of Small Causes, Chennai.



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N.SESHASAYEE, J.

Asr

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