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C.M.A.No.2799 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.11.2023

CORAM:

MR.JUSTICE N.SESHASAYEE

C.M.A.No.2799 of 2023

1.S.Saroja
2.S.Rajadurai
3.S.Selvadurai

... Appellants

Vs.

1.K.S.Kathiravan

2.The Manager
Cholamandalam MS Gen Insurance Co. Ltd.
II Floor, Shaw Wallace Building
154, Thambu Chetty Street
Parry's Corner, Chennai 600 001

... Respondents

PRAYER: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.42 of 2019, dated 11.01.2023, on the file of the Motor Accidents Claims Tribunal / Sub Judge, Panruti.

For appellants : Mrs.Ramya V Rao

For respondents : Mrs.Sree Vidhya - R2
R1 - D/w vide order dt.16.11.2023

JUDGMENT



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The claimants in M.C.O.P.No.42 of 2019, on the file of Motor Accidents Claims Tribunal, Sub Court, Panruti, are the appellants herein.

2. On 07.01.2019, certain Sabarinathan drove his motorcycle for one last time when he was fatally knocked down by a car bearing Registration No.TN 31 AH 8590. Both Sabarinathan and a pillion rider he had were killed on the spot. Seeking compensation, the Dependents of Sabarinathan approached the concerned Motor Accidents Claims Tribunal with their claim petition.

3. Sabarinathan was 51 years at the time when he passed away and he was a supplier of labour for Neyveli Lignite Corporation Ltd. The Tribunal had reckoned his income notionally at Rs.9,000/- and added 10% towards future prospects and applied 11 as a multiplier and after deducting 1/3rd towards his personal expenditure at Rs.8,71,200/-. After adding other non pecuniary conventional heads of compensation, the Tribunal had awarded a total sum of Rs.9,81,200/- as compensation. The details are as below:



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<i>Sl.No.</i>	<i>Heads under which compensation awarded</i>	<i>Amount</i>
1	Loss of Dependency (Rs.9,000/- x 10% = Rs.9,900/- x 12 x 11 = Rs.13,06,800/- - 1/3 = Rs.4,35,600/- = Rs.8,71,200/-)	Rs.8,71,200/-
2	Loss of Love and affection (Rs.16,500/- each = Rs.49,500/-)	Rs. 49,500/-
3	Funeral Expenses	Rs. 16,500/-
4	Loss of consortium	Rs. 44,000/-
	<i>Total</i>	<i>Rs.9,81,200/-</i>

4.However, the Tribunal had found that the driver of the offending vehicle was inebriated at the time of the accident and hence it ordered that the Insurance company might pay the compensation amount and recover the same from the owner of the offending vehicle.

5. Dissatisfied with the quantum awarded, the claimants are now before this Court, seeking enhancement of compensation.

6.The learned counsel for the appellant contended that the Tribunal has fixed the notional income of the victim rather unrealistically. Again under non-pecuniary heads too the Tribunal has been parsimonious in awarding compensation which may be hardly be termed as just and fair.



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7. Whereas, the learned counsel for the 2nd respondent / Insurance Company submitted that whatever that was fixed by the Tribunal is just fair and reasonable.

8. After weighing rival submissions, this Court deems it appropriate to fix the monthly income of the victim at Rs.12,500/- notionally and after adding 10% to a future prospects towards increase in income, and applying 11 as a multiplier and deducting 1/3 from the same towards a personal expenditure of the victim, this Court arrives at a net value of loss of dependency at Rs.12,10,000/-. So far as non pecuniary heads are concerned, this Court has suitably increased it under appropriate heads and the same is shown below:

<i>Sl. No.</i>	<i>Amount granted by the Tribunal</i>	<i>Amount modified by this Court</i>	<i>Final amount granted by this Court</i>
1.	Loss of Dependency (Rs.9,000/- x 10% = Rs.9,900/- x 12 x 11 = Rs.13,06,800/- (-) 1/3 = Rs.4,35,600/- = Rs.8,71,200/-)	Loss of Dependency (Rs.12,500/- x 10% = Rs.13,750/- x 12 x 11 = Rs.18,15,000/- (-) 1/3 = Rs.6,05,000/- = Rs.12,10,000/-)	Rs.12,10,000/-
2	Loss of Love and affection (Rs.16,500/- each = Rs.49,500/-)	Loss of Love and affection	Rs. 88,000/-
3	Funeral Expenses	-	Rs. 16,500/-



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<i>Sl. No.</i>	<i>Amount granted by the Tribunal</i>	<i>Amount modified by this Court</i>	<i>Final amount granted by this Court</i>
4	Loss of consortium	-	Rs. 44,000/-
5	-	Loss of estate	Rs. 16,500/-
Total	Rs.9,81,200/-	<u>Enhanced to Rs.3,93,800</u>	Rs.13,75,000/-

9.To conclude, this appeal stands allowed.

(i) This Court enhances the compensation amount from Rs.9,81,200/- to Rs.13,75,000/-.

(ii) The Insurance Company, the 2nd respondent herein is required to deposit the same with interest at 7.5% to the credit of M.C.O.P.No.42 of 2019, on the file of Motor Accidents Claims Tribunal / Sub Court, Panruti, within a period of six (6) weeks from the date of receipt of a copy of this order and recover the same from the owner of the vehicle.

(iii) As and when the amounts are deposited, the claimants are entitled to withdraw the same along with interest as per existing rules on filing necessary application before the Tribunal after the payment of court fee for the enhanced compensation, if any.



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N.SESHASAYEE, J.

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(iv) The Registry is directed to draft the decree only after the receipt of enhanced court fee.

(v) There is no order as to costs in this appeal.

27.11.2023

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Index : Yes / No
Neutral Citation

To.

The Motor Accidents Claims Tribunal
Sub Court
Panruti.

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