



C.M.A.No.2437 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM : JUSTICE N.SESHASAYEE

C.M.A.No.2437 of 2023

1.Tamilarasi Murugesan
2.R.Murugesan

... Appellants / Petitioners

Vs

1.M.Lakshmi Gayathri
2.M/s.The Oriental Insurance Company Ltd.,
Guindy Branch, Race View Tower
II Floor, No.71, Anna Salai
Guindy, Chennai.
3.K.Murugadoss
4.M/s.The Oriental Insurance Company Ltd.,
Salem Branch, Siva Complex II Floor
Saradha College Main Road
Salem.

..... Respondents / Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying to enhance the compensation amount made in judgment and decree dated 01.04.2022, made in MCOP.No.1158 of 2020 on



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the file of Motor Accident Claims Tribunal, Special District Judge, Salem.

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For Appellants : Mr.S.P.Yuaraj

For Respondent : Mr.M.J.Vijayaraghavan [R2 & R4]

R1 & R3 – Dispensed with vide
order dated 11.10.2023

JUDGMENT

The appellants herein are the claimants / parents of the victim in MCOP.No.1158/2020 on the file of MACT (Special Court for MCOP cases), Salem. They challenge the quantum of compensation awarded by the Tribunal.

2.1 On 24.11.2019, at around 3.00 a.m., a car bearing registration No.TN25-S-1122 met with an accident when a lorry bearing No.TN31-AC-1983 came from the opposite direction and collided with the car. In the accident, one passenger named Suresh died. He was 28 years at that relevant time and was unmarried. His parents approached the Tribunal seeking compensation for a sum of Rs.1.0 crore. It may be mentioned that both the vehicles were



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insured with M/s.The Oriental Insurance Company Ltd.,

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2.2 According to P.W.3, the employer of the victim, the deceased was receiving a net monthly salary of Rs.17,207/-, while his gross monthly income was Rs.19,000/-, and he produced Ext.X.1, salary certificate of the victim. Since P.W.3 did not carry the authorisation letter to depose his evidence before the Court, the Tribunal rejected his testimony Ext.X.1, the Tribunal reckoned his monthly income at Rs.10,000/-. To which, it added another Rs.5,000/- towards future income, since the deceased is in salary class. It applied 17 as a multiplier and arrived at loss of income to the family at Rs.30,60,000/-(15,000 x 12 x 17). And it deducted 50% thereof towards personal expenditure of the victim and arrived at the net value of loss of dependency at Rs.15,30,000/-. It awarded Rs.40,000/- (both for his father and mother) towards loss of love and affection and Rs.25,000/- towards funeral expenses. Thus, the Tribunal awarded the compensation of Rs.15,95,000/-. This is now under challenge in this appeal.

3. Heard both sides. The learned counsel for the appellants submitted that it is nobody's case that the victim was not a salary class. In fitness of things,



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the Tribunal should have reckoned the income of the victim at Rs.19,000/- per month. The mere fact that P.W.3 did not carry the authorisation letter of the employer, cannot be given excessive sanctity as to under estimate the earning capacity of the victim.

4.1 This Court finds lot of merits in the submissions of the appellants' learned counsel. What is significant in the context is the ability to earn. The victim was a MBA graduate, and was stated to have worked as a Sales Officer in M/s.Axis Bank at Salem. Even if his employment with M/s.Axis Bank is doubted, the fact that he was a MBA graduate, implies that he should be capable of earning Rs.20,000/- per month, but in terms of Ext.X.1 he is said to be earning only Rs.17,000/-. He must atleast be granted Rs.17,500/- per month.

4.2 Since the victim belonged to a salaried class and was barely 28 years at the time of accident, he should be awarded another 50% towards future prospects. Accordingly, the loss of dependency is calculated as a product of $[(Rs.17,000 + 50\%) \times 12 \times 17 / 2]$ and this will come to Rs.26,01,000/-. In so far as the compensation on the head of loss of love and affection is



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concerned, both the claimants are entitled to Rs.44,000/- each. Towards funeral expenses, the award of the Tribunal remains unaltered. Accordingly, the award is now re-worked as indicated above. The table below provides the comparative study of the award of the Tribunal as well as the revised award of this Court as below:

Sl. No.	Heads of Compensation	Award of the Tribunal (Rs.)	Revised Award Amount (Rs.)
1.	Loss of dependency	15,30,000.00	26,01,000.00
2.	Loss of love and affection (Rs.44,000/- x 2)	40,000.00	88,000.00
3.	Funeral Expenses	25,000.00	25,000.00
Total :		15,95,000.00	27,14,000.00

5. To conclude, this Court partly allows this appeal and the compensation payable is enhanced from **Rs.15,95,000/-** to **Rs. 27,14,000/-**. The respondents 1 and 2, the owner and the insurer of the lorry are required to deposit the revised enhanced award amount, less if any amount already deposited, The respondents 1 and 2 are now required to deposit the amount with 7.5% interest, less the interest payable for the delay period of 328 days, within six (6) weeks from the date of receipt of a copy of this order. The enhanced portion of the compensation will be apportioned to the claimants in the same ratio in which the Tribunal has distributed the award sum to them. The



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appellants are permitted to withdraw the revised 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 on the enhanced award amount, if any. No costs.

01.11.2023

Index : Yes / No
Speaking order / Non-speaking orders

To:

- 1.The Special District Judge
MCOP Tribunal
Salem.
- 2.The Section Officer
VR Section
High Court, Madras.



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N.SESHASAYEE.J.,

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