



C.M.A No.2541 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 17.10.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.2541 of 2023

1.A.Anandhi

2.Minor A.Saravanan

3.Minor A.Bakyasri

4.K.Amaravathi

5.E.Kali

... Appellants

Vs.

1.D.Thiruvvarasan

2.ICICI Lombard General Insurance Company Ltd.,
Rep. by its Branch Manager,
1st Floor, Arihant Plaza,
No.84 & 85 Wall Tax Road,
Chennai.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, seeking to enhance the award passed in M.A.C.T.O.P.No.573 of 2020 dated 03.01.2023 on the file of the Motor Accidents Claims Tribunal (Small Causes Court) at Chennai.



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For Appellants : Mr.M.S.Umesh
for Mr.P.Dinesh Kumar

For Respondents : Ms.R.Sree Vidhya for R2

JUDGMENT

The claimants herein are the widow and two minor children, and parents of the victim of the accident who died in a road accident that took place on 01.10.2019 when he was 36 years old. The victim was travelling in a motorcycle bearing Registration No.TN 19 D 0885 when it was hit by a car bearing Registration No.PY 01 CP 9339 that dashed from behind.

2.Since the first respondent remained ex parte before the Tribunal, notice to the first respondent is dispensed with.

3.The Tribunal had fixed the notional income of the victim at Rs.10,000/- and after granting 40% towards future prospects, applying 15 as a multiplier, and deducting 1/4 towards personal expenditure of the victim, it arrived at a net value of the dependency at Rs.18,90,000/-. After awarding other conventional heads, the Tribunal has passed an award of Rs.21,78,454/- payable with interest at 7.5% per annum. The claimants



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are unhappy about the fixation of the notional income fixed at Rs.10,000/- per month, and this is the only head under challenge.

4.Since the Tribunal has only fixed the notional income, as it does not involve a great amount of research or analysis of facts, this Court, with the consent of the parties, takes up the matter for final disposal.

5.Mr.M.S.Umesh, the learned counsel for the appellants, submitted that the victim had been making more than Rs.20,000/- per month as he is a plumber, which is a profession in serious scarcity everywhere. He further submitted that the Tribunal had erred in fixing the notional income at Rs.10,000/-.

6.Ms.R.Sree Vidhya, the learned counsel appearing for the second, respondent submitted that the amount fixed is reasonable since the claimants have not produced any documents to indicate the income of the victim.



7.What is not disputed is that the victim is a plumber by avocation. What cannot be disputed is that plumbers and electricians are in great demand, and there is also a huge scarcity. If demand determines the value of the service, then it must be stated that the notional income, as fixed by the Tribunal surely is on the lower side. In all matters where notional income is fixed, and if the victim belongs to an unorganized sector, even if they had filed nil income tax returns, it may provide some idea or truth to the Court to reasonably fix notional income. However, in this country, it is not happening.

8.Taking into account the pricing of the service and considering the fact that the victim was a resident of Chennai, this Court deems it appropriate to fix Rs.13,000/- as the monthly income of the victim notionally. Applying the same methodology as adopted by the Tribunal, the total compensation payable under the head loss of dependency will be Rs.24,57,000/-.

9.Asfar as the other heads of compensation, this Court finds that they are in order, and the award as passed by the Tribunal is confirmed. In all, the appellants will be entitled to Rs.27,45,454/-. This is rounded to



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Rs.27,45,500/-. Since the second respondent / insurance company had already deposited Rs.21,78,454/- plus interest as awarded by the Tribunal, it is now directed to deposit the differential amount with interest within a period of six (6) weeks from the date of receipt of a copy of this order. However, the appellants would not be entitled to any interest for 68 days which represents the delay in filing this appeal. The enhanced portion of compensation is required to be shared in the same ratio by which the Tribunal has apportioned it among the claimants.

10.The Civil Miscellaneous Appeal stands partly allowed. No costs.

17.10.2023

Anu

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The Motor Accidents Claims Tribunal
(Small Causes Court), Chennai



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N.SESHASAYEE, J.

Anu

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