



WEB COPY



CMA No. 2343 / 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 2343 of 2023

1.Jayamuthu

2.Balaji

... Appellants

Versus

1.S. Balamurali

2.The New India Assurance Co.Ltd.,
“LIC Building” 6th Floor,
No.232, N.S.C. Bose Road,
Chennai – 600 001.

... 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. 2099 of 2021 dated 23.09.2022 on the file of the Motor Accident Claims Tribunal, (Special Sub Judge No.2, Small Causes Court), Chennai.

For Appellants

: Mr. K. Varadhakamaraj.

For Respondents

: Mr. C. Johnson for R2.

R1 – Ex parte.



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J U D G M E N T

The claimants have preferred the instant appeal seeking enhancement of compensation in the award passed by the Tribunal in M.C.O.P. No. 2099 of 2021 dated 23.09.2022.

2.The claimants/appellants filed the claim petition stating that on 28.03.2021 at about 8.30 hrs, while the deceased was travelling as pillion rider in the two wheeler belonging to the first respondent and insured with the second respondent, the rider rode the two wheeler in a rash and negligent manner and applied sudden brakes as a result of which the deceased fell down and sustained fatal injuries.

3.The first respondent remained ex parte before the Tribunal.

4.The second respondent filed counter stating that the accident did not take place in the manner alleged in the claim petition; that the rider did not have valid license; and that in any case, the compensation claimed was excessive and prayed for dismissal of the appeal.



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5.The appellants examined PW1 and PW2 and marked Ex.P.1 to Ex.P.12. The second respondent neither examined any witness nor marked any document.

6.The Tribunal after taking into consideration the oral and documentary evidence held that the accident took place due to the negligence of the rider of the two wheeler insured with the second respondent and directed the second respondent to pay a compensation of Rs.20,00,000/- to the appellants at the first instance with a liberty to recover the same from the first respondent.

7.The learned counsel for the appellants submitted that though the appellants had established the fact that the deceased was a first year B.Com., student, the Tribunal had fixed a meagre notional income of Rs.12,500/- per month, although the accident took place in the year 2021 and prayed for enhancement.

8.Notice to the first respondent is dispensed with by the order of this Court dated 21.09.2023.



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WEB COPY 9. The learned counsel for the second respondent, per contra, submitted that the compensation awarded by the Tribunal is just and reasonable and no interference is called for.

10. The only question that arises for consideration in the instant appeal is whether the compensation awarded by the Tribunal is just and reasonable.

11. It is seen that the appellants had marked Ex.P.6, College Identity card to show that the deceased was a first year B.Com., student. Considering the said fact, age of the deceased and the year of the accident, this Court is of the view that it would be just and reasonable to fix the notional income at Rs.15,000/- per month. Since the deceased was aged 19 years at the time of the accident, the appellants are entitled to 40% enhancement towards future prospects and the multiplier applicable is 18. Since the deceased died as a bachelor, 50% has been deducted towards personal expenses. Therefore, the compensation under the head Loss of Dependency would be $\text{Rs.15,000} + 6,000(40\% \text{ of Rs.15,000}) = \text{Rs.21,000/-} \times 12 \times 18 \times 1/2 = \text{Rs.22,68,000/-}$. The award



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under the other heads are just and the same are confirmed. Thus, the

award of the Tribunal is modified as follows;

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	18,90,000	22,68,000	Enhanced
2.	Loss of Consortium	80,000	80,000	Confirmed
3.	Loss of Estate	15,000	15,000	Confirmed
4.	Funeral Expenses	15,000	15,000	Confirmed
	Total	20,00,000	23,78,000	Enhanced by Rs.3,78,000/-

12. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.20,00,000/- is hereby enhanced to Rs.23,78,000/- together with interest at 7.5% per annum (excluding the default period if any) from the date of petition till the date of deposit. The second respondent is directed to deposit the award amount now determined by this Court along with proportionate interest and costs, less the amount already deposited, if any, within a period of six (6) weeks from the date of a receipt of copy of this Judgment at the first instance with a liberty to recover the same from the first respondent. On such deposit, the appellants are permitted to withdraw their respective shares along with proportionate interest and



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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.

27.09.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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SUNDER MOHAN, J

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To

- 1.The Motor Accident Claims Tribunal,
Special Sub Judge No.2,
Small Causes Court,
Chennai.
- 2.The Section Officer,
V.R. Section,
High Court of Madras,
Chennai.

C.M.A. No. 2343 of 2023

Dated: 27.09.2023