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C.M.A.No.2037 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:15.02.2023

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2037 of 2022

and

C.M.P.No.15632 of 2022

R.Maharajan, S/o.Rasappan
No.54, East Street
Keeramangalam Village
Vridhachalam Taluk
Cuddalore District.

... Appellant

Vs.

1.Radhakrishnan, S/o.Chinnathambi
2.Bakkiyaraj, S/o.Radhakrishnan
3.Bharathiraja, S/o.Radhakrishnan
4.Minor Rasathi, D/o.Radhakrishnan
(Minor represented by her father and
next friend Radhakrishnan, 1st Respondent herein)
All at No.2/26, East Street, Kavanur Village,
Vridhachalam Taluk, Cuddalore District.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree made in MCOP.No.180 of 2020, dated 18.04.2022 on the file of the Motor Accident Claims Tribunal/III Additional Sub Judge, Cuddalore, Vridhachalam.

For Appellant : Ms.Ramya V. Rao

For Respondent : Mr.S.Udhayakumar (for R1 to R4)



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J U D G M E N T

The Appeal has been filed against the Judgment and Decree made in MCOP.No.180 of 2020, dated 18.04.2022 on the file of the Motor Accident Claims Tribunal/III Additional Sub Judge, Cuddalore, Vridhachalam.

2.The Appellant herein is the owner of the vehicle. It is the case of no insurance.

3.The Respondents herein filed claim Petition for the death of wife of the 1st Respondent herein in a road transport accident occurred on 17.07.2020. After trial, a sum of Rs.11,65,562/- was awarded by the Tribunal, directing the owner of the vehicle to pay the amount and hence the Appeal.

4.Learned counsel for the Appellant/owner of the vehicle would challenge the quantum of compensation alone.

5.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the Appellant's vehicle are not under



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challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the Appellant's vehicle are hereby confirmed.

6.During the trial, on the side of the claim Petitioners, PW1 & PW2 were examined & Ex.P.1 to Ex.P.10 were marked and on the side of the Respondents, RW1 was examined and no document was marked.

7.Heard the learned counsel appearing on behalf of the Appellant and the learned counsel appearing on behalf of the Respondents on the point of quantum of compensation.

8.Taking note of the fact that the deceased was a vendor, Rs.7,000/- could be a reasonable notional income and considering the age of the deceased viz., 46 years, 25% has to be added towards future prospects and hence, the monthly income comes to Rs.8,750/- [Rs.7,000/- + 25% of Rs.7,000/-]. Since the deceased was aged about 46 years, as per the judgment of the Hon'ble Supreme Court in ***Sarla Verma & Others .Vs. Delhi Transport Corporation &***



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another, reported in **2009 (2) TNMAC 1 (SC)**, multiplier '13' is adopted. Since the number of family members of the deceased is 4, 1/4th has to be deducted towards personal expenses of the deceased. Therefore, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$8750 \times 12 \times 13 \times \frac{3}{4} = \text{Rs.}10,23,750/-$$

The other heads awarded by the Tribunal to the tune of Rs.55,000/- is hereby confirmed.

9.The Tribunal fixed the contributory negligence at 15% on the part of the deceased. The same is also hereby confirmed.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	1023750
2	Loss of consortium	40000
3	Funeral expenses	15000
	Total Compensation	1078750
	85 % of compensation	916937
	Rounded off	917000

In total, the claim Petitioners are entitled to a sum of Rs.9,17,000/- (Rupees nine lakh and seventeen thousand only).



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10. In fine,

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(i) this Civil Miscellaneous Appeal stands partly allowed, reducing the compensation from Rs.11,65,562/- to Rs.9,17,000/- to the extent indicated above. No Costs. Consequently, connected Miscellaneous Petition is closed.

(ii) the owner of the vehicle/Appellant is directed to deposit the reduced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) out of the reduced award amount, the claim Petitioners are entitled to get their share, as per the ratio of apportionment made by the Tribunal. The claim Petitioners are permitted to withdraw their entire share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal.

15.02.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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RMT.TEEKAA RAMAN.J,

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To

The Presiding officer, Motor Accident Claims Tribunal,
III Additional Sub Judge, Cuddalore, Vridhachalam.

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and
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Dated: 15.02.2023