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C.M.A.No.2468 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.11.2023

CORAM:

MR.JUSTICE N.SESHASAYEE

C.M.A.No.2468 of 2023

- 1.Chandraleka
- 2.Minor Ragavi
- 3.Minor Raghul
- 4.Minor Sundanthirapriya
- 5.Kunkumam

(Appellants 2 to 4 rep. by 1st appellant)

... Appellants

Vs.

- 1.Karuppaiyah
- 2.The Manager
The New India Assurance Company Ltd.
2nd Floor, Ram Complex
No.29, Paramathi Main Road
Namakkal 637001

... 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.1275 of 2018, dated 13.04.2022, on the file of the Motor Accidents Claims Tribunal / Special Court for Trial of cases Registered Under SC / ST (POA) Act at Namakkal.

For appellants : Mr.C.Thangaraju



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For respondents : Mr.J.Chandran - R2
R1 - D/w vide order dt.12.09.2023

JUDGMENT

In a freak accident that took place on 10.09.2012, a lorry driven in a reverse direction led to the death of certain Ramanujam who was standing behind the lorry helping him unloading the goods. Seeking compensation his widow, children and the mother of the victim had approached the Motor Accidents Claims Tribunal, Namakkal with M.C.O.P.No.1275 of 2018. The victim himself was a driver and he was aged 38 years at the relevant time. For proving his income the claimants relied on Ex.P14, a certificate issued by the Manager of the Transport Company in which the victim was working. This certificate indicated that the victim was receiving Rs.20,000/- as monthly salary. The Tribunal, however, did not reckon the same as it was neither formally proved nor was it back by any other evidence. The Tribunal thereafter relied on some of the authorities of the Hon'ble Supreme Court and also reckoned the inflation rate and fixed the monthly income of the victim notionally at Rs.11,077/-. After providing for the future prospects and deducting 1/4 towards his personal expenditure, the Tribunal determined total loss of dependency at Rs.20,93,616/-. After adding other



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conventional heads of compensation the Tribunal determined a total compensation payable at Rs.22,50,616/-, which it directed the owner of the lorry and the Insurance company to pay with interest at 7.5% per annum.

The details of the award are as below:

<i>Sl.No.</i>	<i>Heads under which compensation awarded</i>	<i>Amount</i>
1	Loss of Dependency	Rs.20,93,616/-
2	Loss of consortium	Rs. 44,000/-
3	Love and affection	Rs. 80,000/-
4	Funeral Expenses	Rs. 16,500/-
5	Loss of Estate	Rs. 16,500/-
	Total	Rs.22,50,616/-

2. Aggrieved by the perceived inadequacy of the sum awarded, the claimants are now before the Court with this appeal.

3. Heard both sides.

4. The grievance of the claimants is that the Tribunal has grossly undervalued the victim's earning capacity at mere Rs.11,000/- a month when it was admitted that he was a driver at the relevant time.

5. The learned counsel for the respondent on the other hand contended that



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the accident had taken place in 2012 and the compensation might have to be reckoned as per the standard of living as in 2012. Indeed, the Tribunal was scientific when it fixed the notional income and that does not require to be disturbed.

6.After weighing rival submissions, this Court considers that Rs.12,000/- would be appropriate monthly income for a driver in 2012. It should not be forgotten that when the Court fixes monthly income notionally, it should appear fair and reasonable. After all, the claimants had an opportunity to prove Ex.P14 formally or to back it with any other documentary evidence.

7.Taking Rs.12,000/- a month and adding 40% to it towards future prospects of increase in earning of the victim and applying 15 as a multiplier and deducting 1/4th towards personal expenditure of the victim, the net value of the loss of dependency is arrived at Rs.22,68,000/-, for loss of consortium Rs.40,000/-, for loss of love and affection for all the claimants Rs.2,00,000/- (Rs.40,000/- each), for funeral expenses Rs.16,500/- and for loss of estate Rs.16,500/- = Rs.25,41,000/-. The details are given below:



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Sl. No.	Amount granted by the Tribunal	Amount modified by this Court	Final amount granted by this Court
1.	Loss of dependency = Rs.20,93,616/-	Loss of dependency = Rs.22,68,000/-	Rs.22,68,000/-
2	Loss of consortium	-	Rs. 40,000/-
3	Love and affection = Rs.80,000/-	Love and affection Rs.2,00,000/- (Rs.40,000/- each)	Rs. 2,00,000/-
4	Funeral Expenses	=	Rs. 16,500/-
5	Loss of Estate	-	Rs. 16,500/-
Total	Rs.22,50,616/-	<u>Enhanced to</u> <u>Rs.2,90,384/-</u>	Rs.25,41,000/-

In fine, this appeal stands allowed.

(i) The compensation payable is enhanced from Rs.22,50,616/- to Rs.25,41,000/-.

(ii) This Court is informed that the respondent / Insurance company has already deposited the entire compensation amount as is required to be paid in terms of the award of the Tribunal. The Insurance Company is now required to pay the differential sum with interest at 7.5% less the interest payable for 208 days to the credit of M.C.O.P.No.1275 of 2018, on the file of Motor Accident Claims Tribunal, Namakkal, within a period of six (6) weeks from the date of receipt of a copy of this order.



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(iii) On such deposit, the claimants are entitled to withdraw the entire compensation 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.

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

(v) The enhanced portion of the compensation is directed to be apportioned equally between the three minor children of the victim (respondents 2, 3 and 4) and the same shall be invested in a Nationalized Bank in reinvestment scheme till they attain majority. It is made clear that the interest accrued on such deposit shall be withdrawn by the 1st claimant/wife of the deceased once in three months.

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

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Index : Yes / No
Neutral Citation



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To.

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The Motor Accidents Claims Tribunal
Special Court for Trial of cases Registered
Under SC / ST (POA) Act
Namakkal.



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N.SESHASAYEE, J.

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