



CMA.No.2377 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 12.10.2023

CORAM: JUSTICE N.SESHASAYEE

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1.G.Rajalakshmi
2.Minor G.Savitha Shree
3.Minor G.Riya Shree
(Minor petitioners 2 and 3 represented by
their mother G.Rajalakshmi)
4.Lakshmipathi
5.Kamalaveni

... Appellants/Petitioners

-Vs-

1.R.Devan
2.The Royal Sundaram General
Insurance Company Limited (HUBB),
at No.1, Club House Road,
Anna Salai, Chennai – 2.

...Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the M.V.Act, 1988, against the decree and judgment dated 18-11-2022 made in M.C.O.P.No.327 of 2019, on the file of Motor Accident Claims Tribunal, (III Additional District and Sessions Court), Tiruvallur at Poonamallee.

For Petitioner	: Mr.K.Varadha Kamaraj
For R1	: notice D/W Vide order dt.04.10.2023
For R2	: M/s.C.Harini



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JUDGMENT

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The claimants in MCOP.No.327 of 2019 before the Motor Accident Claims Tribunal, III Additional District and Sessions Court, Tiruvallur at Poonamalli are the appellants. They seek enhancement of compensation, more specifically, under the head 'loss of dependency' owing to the demise of L.Giriraj.

2.On the fateful day on 15.05.2019 at around 9.30 a.m. Giriraj was riding his motor cycle bearing Regn.No.TN 85 A 9126, and met his end when a water tanker Lorry bearing Regn.No.TN 20 CQ 5762 dashed against his vehicle. He was admitted in the hospital, where he died on the same day.

3.Giriraj was 34 years old at the time of the accident and he was stated to be doing his own business. In these circumstances, the Tribunal was constrained to fix his monthly income notionally at Rs.10,000/-, to which it added 40% towards future prospects and deducted 1/4th towards his personal expenditure, since he left behind surviving five dependents and applied a multiplier of 16 to arrive at a total dependency at Rs.20,16,000/-. After awarding compensation on other conventional



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heads, the Tribunal had arrived a total compensation of 22,95,850/-, which it directed the respondents to pay with interest at 7.5%. This is now under challenge.

4.Relying on a Authority in ***Managing Director, Tamil Nadu State Transport Corporation (VPM) Ltd., Vs. R.Natarajan*** [2023 (1) TN MAC 191 (DB)], the learned counsel for the appellant submitted that it would be only appropriate if the Tribunal had awarded Rs.15,000/- as notional income instead of Rs.10,000/-.

5.Heard, the learned counsel for the second respondent.

6.It is not known what is that business which the victim was engaged in. Therefore, the appellants themselves have created a circumstance, where it denied the Court with some material to quantify the income of the victim of the accident even notionally. However, given these times without a minimum of Rs.12,000/-, it may not be possible for any person to maintain a family of five. This Court therefore, considers enhancing the monthly income of the victim to Rs.12,000/-. This would imply that



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the compensation amount must be increased by Rs.2000/- plus 40% towards future prospects on this Rs.2000/- minus 25% towards his personal expenditure. If so done, the compensation to be paid will increase by Rs.4,03,200/-. Accordingly, the total compensation will now increase by Rs.26,99,050/-.

7.The learned counsel for the second respondent/Insurance Company submitted that the Insurance Company had deposited the entire compensation amount as awarded by the Tribunal. It is now required to pay the enhanced portion of Rs.4,03,200/- 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 / Insurance Company is directed to deposit the award amount, now determined by this Court along with interest and costs, within a period of six (6) weeks from the date of a receipt of copy of this Judgment. On such deposit the appellants 1, 4 and 5 are permitted to withdraw the award amount along with proportionate interest and costs, as per the apportionment fixed by the Tribunal, less the amount if any, already withdrawn and the compensation amounts pertaining to the appellants 2 and 3 viz., Minor



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G.Savitha Shree and Minor G.Riya Shree are directed to be deposited in a nationalised Bank in the interest bearing Fixed Deposit till the minors attain the age of majority and the mother of the minors viz., G.Rajalakshmi is permitted to withdraw the accrued interest on the deposits of the minors once in six months. The appellants are directed to pay the necessary Court Fee if any on the enhanced award amounts. No costs.

12.07.2023

Tsg

To

- 1.The Motor Accident Claims Tribunal,
III Additional District and Sessions Court,
Tiruvallur at Poonamallee.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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N.SESHASAYEE, J.,

Tsg

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