



C.M.A.No.2386 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.12.2023

CORAM:

MR.JUSTICE N.SESHASAYEE

C.M.A.No.2386 of 2023

1.S.Thilaga

2.S.Nishantini (Minor)

3.S.Revanth Kumar (Minor)

(Minors 2 and 3 represented by their mother
and next friend 1st appellant)

4.R.Nagalingam

5.N.Ellammal

... Appellants

Vs.

1.A.M.Saravanan

2.The United India Insurance Co. Ltd.

No.134, Silingi Buildings

Greens Road, Chennai 600 006

... Respondents

PRAYER: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 12.02.2020 in M.C.O.P.No.4807 of 2018 on the file of the learned Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes at Chennai.



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For appellants : Mr.G.Balaji Prasad

For respondents : Ms.R.Sreevidhya - R2
R1 - D/w vide order dt. 05.10.2023

JUDGMENT

The claimants in M.C.O.P.No.4807 of 2018 on the file of Motor Accidents Claims Tribunal, (Chief Judge, Small Causes Court), Chennai are the appellants herein. They are dissatisfied with the quantum of compensation awarded by the Tribunal in a fatal road accident, in which a certain Santhosh Kumar had died. The accident had taken place on 03.07.2018 at around 9.45 p.m. while the victim was standing by road side when a bus bearing Registration No.TN-73-E-6666 belonging to the 1st respondent and insured with the 2nd respondent dashed against him.

2.The deceased was stated to be 29 years old and was working as a car driver with M/s.Kavitha Textiles and was stated to be earning Rs.15,000/- per month. He left behind his wife, two minor children and parents as his Dependents. Before the Tribunal, the claimants did not produce any material to show that the victim was a driver. Therefore, the Tribunal was constrained to fix the monthly income of the victim notionally at Rs.10,000/-



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After adding 40% towards future prospects and applying 17 as a multiplier and deducting 3/4 towards personal expenditure, the Tribunal determined the compensation on loss of dependency at Rs.21,42,000/-. Towards loss of love and affection, the Tribunal had fixed it at Rs.20,000/- each. The award runs as below:

<i>Sl.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	a) Deceased monthly Salary : Rs.10,000/- b) and 40% future prospects : Rs. 4,000/- ----- -- Rs.14,000 /- Loss of future dependency (Rs.14,000/- x 12 x 17 x 3/4)	Rs.21,42,000/-
2	Funeral Expenses	Rs. 15,000/-
3	Loss of Love and Affection	Rs. 1,00,000/-
4	Loss of consortium to 1st petitioner	Rs. 40,000/-
5	Medical bills	Rs. 250/-
	Total	Rs.22,97,250/-

3.Learned counsel for the appellants submitted that the appellants had taken out C.M.P.No.22484 of 2023 and had produced the driving licence of the deceased. This petition was allowed on 02.11.2023. Accordingly, the said



driving licence is now marked as Ex.P27. He further added that the victim was hospitalized for three days before he died and therefore the Tribunal ought to have awarded reasonable compensation for pain and suffering that would accrue to his estate. This apart, the notional income reckoned by the Tribunal and also the compensation paid under the head loss of love and affection for the children and parents are also on a lower side.

4.The learned counsel for the 2nd respondent defended the award along the lines indicated by the Tribunal, but conceded that the compensation in terms of *Sarala Varma Vs. Delhi Transport Corporation & another* reported in **(2009) 6 SCC 121**, compensation for love and affection ought to be Rs.40,000/- for the parents and the two children of the victim of the accident.

5.After weighing rival submissions, this Court considers that Rs.13,000/- per month would be a reasonable notional income for a driver in 2018. To this, another 40% is added towards future prospects of increase in income and applying 17 as a multiplier and deducting 1/4th thereof towards personal



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expenditure of the victim of the accident, the net value of the loss of dependency is arrived at Rs.27,84,600/-. Funeral expenses Rs.15,000/- is retained. Loss of consortium for the 1st petitioner Rs.40,000/- is retained. Medical bills Rs.250/- is retained. This Court now enhances for love and affection Rs.1,60,000/- (Rs.40,000/- x 4). This Court also awards Rs.25,000/- for pain and suffering and Rs.10,000/- for transport.

6.This appeal stands partly allowed accordingly.

(i) The compensation payable is enhanced from Rs.22,97,250/- to Rs.30,34,850/-.

(ii) The respondent / The United India Insurance Co. Ltd., is stated to have deposited the sum awarded by the Tribunal and it is now required to deposit the differential sum with interest at 7.5% p.a., less interest payable for 961 days in filing the appeal to the credit of M.C.O.P.No.4807 of 2018, on the file of Motor Accidents Claims Tribunal (Chief Judge, Small Causes), Chennai, within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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(iii) Since this Court has already directed to deposit the entire award amount, the major claimants are now permitted to withdraw their respective shares as apportioned by the Tribunal by filing appropriate application before the Tribunal as per existing rules. The appellants shall pay the 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 of Rs.7,37,600/- is directed to be equally divided between the two minor children of the victim.

(vi) As far as the shares of the minor appellants are concerned, the same shall be invested in any one of the Nationalized Banks 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.

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

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Index : Yes / No
Neutral Citation

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To.

The Motor Accidents Claims Tribunal
Chief Judge
Court of Small Causes
Chennai.



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N.SESHASAYEE, J.

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