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CMA No. 2341 / 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Civil Miscellaneous Appeal No. 2341 of 2023

1.Suguna Bai

2.Sugunaram

3.Ramesh @ Ramesh Kumar

... Appellants

Versus

1.M/s.Greenways Shipping Agencies P. Ltd.,
Rep., by its Managing Director,
Old No.55, New No.9.113, 1st Floor,
Armenian Street, Chennai – 600 001.

2.United India Insurance Co.Ltd.,
D.O: T.P. Cell: No. 134,
Greaves Road,
Chennai – 600004.

... 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. 7034 of 2018 dated 15.11.2022 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.

For Appellants

: Mr. U. Chithambaram.

For Respondents

: Mrs. R. Sreevidhya for R2.



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R1 – Dispensed with.

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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. 7034 of 2018 dated 15.11.2022.

2.The claimants/appellants have filed the claim petition stating that on 06.10.2018 at about 12 hrs, while the deceased was travelling as a pillion rider in the two wheeler on a public road, a lorry belonging to the first respondent and insured with the second respondent was parked in a dangerous manner without any parking light or parking indication, as a result of which, the rider of the two wheeler in which the deceased travelled dashed against the said lorry, as a result of which the deceased sustained fatal injuries.

3.The first respondent filed counter stating that the accident took place only due to the negligence of the rider of the two wheeler; that the lorry was insured with the second respondent herein; and that in any case, the compensation claimed was excessive and prayed for dismissal of the appeal.



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WEB COPY 4.The second respondent filed counter stating that the accident took place only due to the negligence of the rider of the two wheeler; that the lorry insured with the second respondent was parked in the extreme left with all indications; that the rider and the deceased did not wear helmet at the time of the accident; and that in any case, the compensation claimed was excessive and prayed for dismissal of the appeal.

5.The appellants examined PW1 and PW2 and marked Ex.P.1 to Ex.P.11. The respondents examined RW1 and marked Ex.R.1 to Ex.R.3.

6.The Tribunal after taking into consideration the oral and documentary evidence held that the accident took place due to the negligence of the driver of the lorry insured with the second respondent and directed the second respondent to pay a compensation of Rs.17,73,200/- to the appellants.

7.The learned counsel for the appellants submitted that though the appellants had established that the deceased was working as electrician, the Tribunal fixed a low monthly income of Rs.11,000/- which requires



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enhancement.

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8. Notice to the first respondent is dispensed with by the order of this Court dated 14.09.2023.

9. The learned counsel for the second respondent, per contra, submitted that the compensation awarded by the Tribunal is just and reasonable in the absence of any proof for avocation and income of the deceased and prayed for dismissal of the appeal.

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. On perusal of the records, it is seen that PW1, mother of the deceased was examined to show that the deceased was working as Electrician. However, no documentary evidence was filed to either prove the avocation or income of the deceased. Considering the age, avocation 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.14,000/- per month.



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Since the deceased was aged 21 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 to be deducted towards personal expenses. Therefore, the compensation under the head loss of income would be Rs.14,000 + Rs.5,600 (40% of Rs.14,000) = Rs.19,600/- X 12 X 18 X 1/2=Rs.21,16,800/-. The award 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	16,63,200	21,16,800	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	17,73,200	22,26,800	Enhanced by Rs.4,53,600/-

12. With the above modification, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.17,73,200/- is hereby enhanced to Rs.22,26,800/- together with



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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. On such deposit, the appellants are permitted to withdraw their respective shares of the award amount along with proportionate interest and costs, less the amount if any, already withdrawn as per the apportionment fixed by the Tribunal. 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

SUNDER MOHAN, J



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To

1. The Motor Accident Claims Tribunal,
III Court of Small Causes,
Chennai.

2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai.

C.M.A. No. 2341 of 2023

Dated: 27.09.2023