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C.M.A.No.3402 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.No.3402 of 2021

- 1.Latha
W/o.Manickkam
- 2.Minor Bhuvana
D/o.Manickkam
- 3.Minor Soundharya
D/o.Manickkam
- 4.Sevathayee
W/o.Late Sengodan

All the appellants are residing at
5/74, Kathiripatti,
Achankuttapatti Village,
Salem – 636 122.

..Appellants

Vs.

- 1.S.A. Ramalingam
S/o.Arumuga Mudhaliar,
Prop M/S.Kalai Bus Service,
D.No.65, N.No.55,
Kasi Muniappa Koil Street,
2nd Agraharam, Salem – 636 001.



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2.M/s.United India Insurance Co Limited,
Divisional Office No.2,
No.104 A, Ranga Building,
Peramanur Main Road, Near Four Roads,
Salem – 636 007.

..Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the judgment dated 01.10.2021 in M.C.O.P.No.2200/2019 on the file of the Motor Accident Claims Tribunal (Special District Judge), Salem.

For Appellants : Mr.R. Nalliyappan

For R1 : Mr.S.P. Yuvaraj

For R2 : Mr.S. Arun Kumar

J U D G M E N T

Not being satisfied by the award passed by the Motor Accident Claims Tribunal/Special District Judge, Salem in M.C.O.P.No.2200 of 2019 dated 01.10.2021, the legal representatives of the deceased Manickkam have preferred this Civil Miscellaneous Appeal for enhancement of compensation.



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2. The Claim Petition was filed under Section 166 of the Motor Vehicles Act read with Rule 3 of Motor Accident Claims Tribunal Rules, claiming compensation of Rs.60,00,000/- (Rupees Sixty Lakhs only).

3. The Tribunal after hearing both sides arguments and upon perusal of oral and documentary evidence, has granted compensation for an amount of Rs.16,21,000/- (Rupees Sixteen Lakhs and Twenty One Thousand only) with interest at 7.5% per annum from the date of petition till the date of realization. (Excluding the period of dismissal for default, if any) payable by the 2nd respondent Insurance Company.

4. The learned counsel for the appellants/claimants would strenuously contend that the Notional income fixed by the Tribunal is very less and the 1/3rd deduction made is incorrect. He would also further contend that no amount was granted by the Tribunal for Filial Consortium, Loss of Estate and for Funeral Expenses and prayed for enhancement of compensation.



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5. The learned counsel for the 2nd respondent / Insurance company would rather argue that the Tribunal having taken into account all the oral and documentary evidence, has granted compensation of Rs.16,21,000/-, which is in order and needs no interference.

6. As regards the accident, it is stated that on 27.08.2019 at about 09.00 a.m., while the deceased S.Manickam was riding his two wheeler from his residence to Kalarampatty near Kuppanur Palam proceeding along the left side of the road, he was hit by the bus, which came in a rash and negligent manner and the said Mr.Manickam succumbed to the injuries, which is not in dispute.

7. The deceased was stated to be a self-employed person and earning a sum of Rs.30,000/- per month. The Tribunal has fixed the notional income of the deceased at Rs.12,000/- per month. As per the Driving License/Ex.P9 of the deceased, age of the deceased was fixed as 35 years, which is not in dispute and the date of accident is 27.08.2019.



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8. Therefore, this Court deems fit to fix the income of the deceased as Rs.11,000/- (Rupees Eleven Thousand only). With regard to adding of Future Prospects, the Hon'ble Supreme Court of India has standardized the details in *National Insurance Company Limited Vs. Pranay Sethi and others* reported in **2017 (2) TNMAC 609 (SC)**, for the persons below the age group of 40 years, 40% to be added while computing the income.

9. The appellants/claimants are the wife, two minor children of the deceased and his mother. Four in all have filed the Claim Petition. Therefore, based on the law laid down by the Hon'ble Supreme Court of India in *Smt.Sarla Verma and others Vs. Delhi Transport Corporation and another*, reported in **2009 (2) TNMAC 1 SC**. Deduction for personal and living expenses, if the number of family members are 4 to 6, $1/4^{\text{th}}$ to be deducted and the relevant Multiplier to be adopted is Multiplier-16. Therefore, to arrive at the pecuniary loss, the following formula emerges:



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Age of the Petitioner/Deceased : 35 years

Notional income fixed : Rs.11,000/-

40% Future Prospects to be added : 11,000+40% = Rs.15,400/-

11,000+40%x12x16x1/4 : Rs.7,39,200/-

10. As per the law laid down by the Hon'ble Supreme Court of India in the case of *National Insurance Company Limited Vs. Pranay Sethi and others* reported in **2017 (2) TNMAC 609 (SC)**, for Loss of Consortium, in respect of appellants No.2 to 4, an amount of Rs.1,20,000/- (Rupees One Lakh Twenty Thousand only) is granted. For Loss of Estate, an amount of Rs.15,000/- (Rupees Fifteen Thousand only) is granted. In all other aspects, the award of the Tribunal appears to be reasonable and hence it needs no interference.

11. While calculating the total compensation, it was wrongly calculated as Rs.16,81,000/- instead of Rs.16,21,000/-.

12. Thus, the amounts awarded by the Tribunal is modified as follows:



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S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income to the appellants	15,36,000/-	22,17,600/-	Enhanced
2.	Loss of Estate	-	15,000/-	Granted
3.	Loss of consortium to 1 st appellant	40,000/-	40,000/-	Confirmed
4	Loss of consortium to appellants 2 to 4	-	1,20,000/-	Granted
4.	Loss of love and affection	20,000/-	20,000/-	Confirmed
5.	Funeral expenses	25,000/-	25,000/-	Confirmed
	Total	Rs.16,21,000/-	Rs.24,37,600/-	

13.In the result,

13(i).This Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.16,21,000/- is hereby enhanced to Rs.24,37,600/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit.

13(ii).The 2nd respondent-Insurance Company is directed to deposit the award amount, now determined by this Court along with interest and costs, less the amount already deposited, if any, within a



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period of eight weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.2200 of 2019 on the file of the Motor Accident Claims Tribunal (Special District Judge), Salem.

13(iii).On such deposit, the appellants are permitted to withdraw their respective share of the award amount as per the ratio of apportionment fixed by the Tribunal along with proportionate interest and costs, less the amount if any, already withdrawn by making necessary cheque applications before the Tribunal. No costs.

30.06.2023

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Index: Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation: Yes/No

To

1.The Motor Accident Claims Tribunal
(Special District Judge), Salem.

2.The Section Officer

VR Section,
High Court, Madras.



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R.KALAIMATHI, J.

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