



C.M.A.No.2832 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 27.01.2023	Pronounced on 03.02.2023
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

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1.Malarkodi, W/o.Thangarasu (a) Thangaraj
2.T.Velmurugan, S/o.Thangarasu (a) Thangaraj
3.T.Selvakumar, S/o.Thangarasu (a) Thangaraj
4.T.Jayanthi, W/o.Rajanadanasabapathy ... Appellants

Vs.

The Superintendent of Police,
District Police Office,
Cuddalore 607 001 ... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in MCOP.No.1937 of 2017 dated 28.09.2021 on the file of the Motor Accident Claims Tribunal (1st Additional District and Sessions Judge, Cuddalore).

For Appellants : Ms.Ramya V. Rao
For Respondents : Mr.C.Jaya Prakash
Government Advocate



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JUDGMENT

The Appeal has been filed against the Judgment and Decree made in MCOP.No.1937 of 2017 dated 28.09.2021 on the file of the Motor Accident Claims Tribunal (1st Additional District and Sessions Judge, Cuddalore).

2.Mr.C.Jaya Prakash, learned Government Advocate, takes notice on behalf of the Respondent on 22.12.2022. When the matter is taken up on 27.07.2023, by consent of both the parties, the main Appeal is heard.

3.The claim Petitioners are the Appellants herein, seeking enhancement of compensation awarded in MCOP.No.1937 of 2017 dated 28.09.2021 on the file of the Motor Accident Claims Tribunal (1st Additional District and Sessions Judge, Cuddalore), they have preferred this Appeal. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

4.The legal representatives of the deceased Thangarasu @ Thangaraj filed MCOP.No.1937 of 2017, before the Motor Accident Claims Tribunal (1st



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Additional District and Sessions Judge, Cuddalore).

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5. During the trial, on the side of the claim Petitioners, PW1 & PW2 were examined & Ex.P.1 to Ex.P.7 were marked and on the side of the Respondent, none was examined and no document was marked.

6. Heard the learned counsel appearing on behalf of the claim Petitioners and the learned counsel appearing on behalf of the Respondent.

7. The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the offending vehicle are not under challenge in this Appeal. Accordingly, the findings rendered by the trial Court in this regard, are hereby confirmed.

8. Based on Ex.P.2/Postmortem Certificate and Record Sheet of the deceased, the age of the deceased was fixed by the Tribunal at 57 years. The Tribunal adopted proper multiplier, as per the judgment of the Hon'ble Apex Court in the case of ***Sarla Verma & Others .Vs. Delhi Transport Corporation***



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& another, reported in **2009 (2) TNMAC 1 (SC)**, which is "9". The same are hereby confirmed.

9.Taking into consideration the date of accident i.e., 11.03.2017, notional income is fixed at 11,000/- per month. As per the Constitution Bench's judgment of the Hon'ble Apex Court in the case of **National Insurance Company Limited V. Pranay Sethi and others**, reported in **2017 (2) TN MAC 609 (SC)**, future prospects is to be considered at the rate of 10% and as per the **Sarla Verma's** case, 1/4th to be deducted towards personal expenses of the deceased and hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$(Rs.11,000/- + Rs.1,100/-) \times 12 \times 9 \times 3/4 = Rs.9,80,100/-$$

10.The Tribunal has awarded a sum of Rs.44,000/- towards loss of consortium to the 1st claim Petitioner and a sum of Rs.16,500/- towards funeral expenses (after enhancing 10%, as per the Judgment of the Hon'ble Apex Court in **Pranay Sethi's** case). The same are hereby confirmed. The Tribunal has awarded a sum of Rs.15,000/- towards transportation, the same is also



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confirmed. This Court awards a sum of Rs.40,000/- each to the claims
Petitioners 2 to 4 and a sum of Rs.15,000/- towards loss of estate.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	980100
2	Loss of consortium	44000
3	Loss Love and affection (Rs.40,000/- x 3)	120000
4	Funeral expenses	16500
5	Transportation	15000
6	Loss of Estate	15000
	Total	1190600

In total, the claim Petitioners are entitled to a sum of Rs.11,90,600/- (Rupees eleven lakh ninety thousand and six hundred only) and the interest awarded by the Tribunal at the rate of 7.5% per annum is also confirmed.

11. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.8,28,300/- to Rs.11,90,600/- to the extent indicated above. No Costs.

(ii) the Respondent is directed to deposit the enhanced award amount, with interest and costs before the Tribunal, within a period of eight weeks from the



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date of receipt of a copy of this order.

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(iii) on such deposit being made, all the claim Petitioners are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The claim Petitioners are permitted to withdraw their entire share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal.

(iv) the claim Petitioners are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

03.02.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To

The Motor Accident Claims Tribunal,
1st Additional District and Sessions Judge,
Cuddalore.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated:03.02.2023