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CMA No.2808 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.02.2023

PRONOUNCED ON : 14.03.2023

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.2808 of 2022

1. Arulmary
2. Jayaraj
3. Selvaraj
4. Magimairani
5. Juli Stella Mary
6. D.Gnanasoundari

.. Appellants/petitioners

Vs.

1. Kavitha
2. Shriram General Insurance Co. Ltd.,
1st Floor, Plot No.5, Ramachandran Street,
Saravana Nagar, Seevaram, Perungudi,
Chennai – 600 096.

.. Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to enhance the award dated 07.03.2022 passed in MCOP No.100 of 2019 on the file of the Motor Accident Claims Tribunal [Sub Court], Panruti.

For Appellants : Mrs.Ramya V. Rao



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For Respondents : Mr.N.Somasundar (for R2)
No appearance (for R1)

JUDGMENT

Claim petitioners are the appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal (Sub Court), Panruti, vide judgment and decree dated 07.03.2022 in MCOP No.100 of 2019.

2. For the sake of convenience, the parties are hereinafter referred to as per their ranking before the claims tribunal.

3. The factum of the accident, the manner of the accident and the negligence on the part of the driver of the offending vehicle, are not disputed and hence, the findings of the tribunal are confirmed.

4. On the point of quantum of compensation both the parties are heard.

5. Main contention of the learned counsel for the appellants/claim



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petitioners, is that the claims tribunal by fixing a lesser income i.e. Rs.9,000/- as notional income of the deceased-Francis, who was a Mason, adding 25% towards future prospects as per the decision of our Hon'ble Supreme Court in *[National Insurance Company Limited Vs. Pranay Sethi, reported in 2017 (16) SCC 680]*, by applying '13' multiplier and deducting 1/4th towards the personal and living expenses of the deceased, has awarded Rs.13,16,250/-, towards loss of income/dependency and hence, she seeks for enhancement.

6. During the trial, PW1, the 1st claim petitioner and PW2- occurrence witness are examined and Ex.P1 to Ex.P8 are marked. Based upon Ex.P8-Aadhar card of the deceased, the claims tribunal has come to the conclusion that at the time of the accident, the deceased was aged 50 years, as the year of birth of the deceased was mentioned as 1968 in Ex.P8-Aadhar card and the date of accident is 03.06.2018. Though, in Ex.P2-Postmortem certificate, the age of the deceased is mentioned as 53, in view of the positive evidence available i.e. Ex.P8-Aadhar card of the deceased, I am inclined to accept the finding of the claims tribunal. However, the income fixed by the claims tribunal is less and taking into consideration the



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year of the accident i.e. 2018 and the avocation pleaded i.e. Mason, I am of the considered view that fixing a sum of Rs.12,000/-per month as Notional Income, will meet the ends of justice as against the sum of Rs.9,000/- per month fixed by the tribunal.

7. In view of the above, by fixing Rs.12,000/-pm as notional income; adding 25% of income towards future prospects, as per the decision of our Hon'ble Supreme Court in *National Insurance Company Limited Vs. Pranay Sethi*, reported in 2017 (16) SCC 680; adopting '13' multiplier, as per the decision of the Hon'ble Supreme Court in *Sarla Varma Vs. Delhi Transport Corporation Ltd.*, reported in TNMAC 2009 (2) SC and by deducting 1/4th towards the personal and living expenses of the deceased, as there are four dependants, the loss of dependency/income is reassessed as under

Monthly income	-	Rs.12,000/-
Future Prospects @ 25%	-	Rs. 3,000/-
Total Income	-	Rs.15,000/-
Loss of dependency/income	=	Rs.15,000/- x 12 x 13 x 3/4
	=	Rs.17,55,000/-

8. Further, the award of the tribunal under the head 'transportation charges' for the accident of the year 2018 is less and hence, the same is



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enhanced from Rs.10,000/- to Rs.15,000/-. The award of the tribunal under other heads, is just and reasonable and hence, the same is confirmed.

9. In view of the above discussion, the award of the tribunal is enhanced from Rs.15,96,250/- to Rs.20,40,000/- as detailed hereunder.

Pecuniary loss	= Rs.17,55,000/-
Loss of consortium	= Rs. 40,000/-
Loss of Estate	= Rs. 15,000/-
Loss of love and affection	
@ Rs.40,000/- each to	
claimants 2 to 6	= Rs. 2,00,000/-
Funeral Expenses	= Rs. 15,000/-
Transportation Charges	= Rs. 15,000/-
Amount now awarded	= Rs.20,40,000/-
Amount awarded by the Tribunal	= <u>Rs.15,96,250/-</u>
Enhanced Amount	= <u>Rs. 4,43,750/-</u>

10. In the result, it is ordered as follows:

- (i) The judgment and decree dated 07.03.2022, made in MCOP No.100 of 2019 on the file of the Motor Accident Claims Tribunal [Sub Court], Panruti, stands modified to the limited extent that the compensation of Rs.15,96,250/- awarded by the claims tribunal is enhanced to Rs.20,40,000/- and the interest awarded by the claims tribunal remains unaltered.



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- (ii) Out of the compensation now awarded i.e., Rs.20,40,000/-, the 1st appellant/wife is entitled to Rs.8,40,000/-; appellants 2 to 5/sons and daughters are entitled to Rs.2,50,000/- each and the 6th appellant/mother is entitled to Rs.2,00,000/-.
- (iii) Additional Court fee, if any, to be paid by the claim petitioners within a period of four weeks and decree to be drafted after the payment of Court fee.
- (iv) The 2nd respondent-Insurance Company is directed to deposit the enhanced compensation amount of Rs.20,40,000/- with proportionate interest and costs to the credit of MCOP No.100 of 2019 on the file of the Motor Accident Claims Tribunal [Sub Court], Panruti, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any.
- (v) On such deposit, the appellants/claim petitioners, are permitted to withdraw the same, as apportioned above, on making necessary applications.

11. With the above directions, the Civil Miscellaneous Appeal stands partly allowed. No Costs.



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Index : Yes/No

Speaking/Non-Speaking Order

Neutral Citation : Yes/No.

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To

The Sub Court,
Motor Accident Claims Tribunal, Panruti.



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RMT.TEEKAA RAMAN,J.,

ars

Pre-delivery Judgment in
CMA No.2808 of 2022

14.03.2023