



WEB COPY

C.M.A.No.1145



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.06.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A.No. 1145 of 2022

1. Ramakrishnan
2. Selvi

...Appellants

Vs.

1. Chandrakala
2. The Manager,
The Oriental Insurance Company Limited,
Situating at
No.32/312, Vijayalakshmi Complex,
3rd street, 1st Floor, Sathuvachari, Vellore.

(Since R1 remained ex parte before the Tribunal
his presence may be dispensed with)

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the award dated 06.02.2019 made in M.A.C.T.O.P.No.873 of 2017 on the file of the Motor Accident Claims Tribunal, the Special Sub Court, Tiruvannamalai.

For Appellants : Mrs.M.Malar
For R2 : Mr.M.J.Vijayaraghavan



JUDGMENT

WEB COPY

The parents of the deceased Tr.Radharavi have filed M.C.O.P.No.873 of 2017 before the Motor Accidents Claims Tribunal, (Special Sub Court), Tiruvannamalai, claiming a sum of Rs.20,00,000/- as compensation for the death of one Tr.Radharavi who died in the accident that took place on 08.07.2015.

2. According to the claimants, on the date of accident, when the deceased Tr.Radharavi was riding his Bajaj Discover Two Wheeler bearing Registration No.TN 25 AC 1341 on the Jamanamarathur - Veerappanur main road, opposite to Arichandiran Teacher's House at Jamanamarathur, the driver of the Tractor bearing Registration No.TN 25 P 9281 owned by the first respondent, drove the same in a rash and negligent manner, lost control and dashed against the motorcycle of the deceased. In the accident, the said Tr.Radharavi sustained fatal injuries and died on the spot. According to the claimants, the accident occurred only due to rash and negligent driving by the driver of the Tractor owned by the first respondent. At the time of accident, the deceased was aged about 20 years, doing Masonry work and was earning Rs.15,000/- per month, as salary.



WEB COPY

3. The first respondent, the owner of the offending vehicle remained ex-parte and the claim petition was contested by the second respondent/Insurance Company. The second respondent/Insurance Company filed a counter denying all the averments raised in the claim petition including negligence, liability and quantum.

4. Before the claims Tribunal, the first claimant examined himself as P.W.1., the eye-witness was examined as P.W.2. and Exs.P.1 to P.6 were filed on behalf of the claimants. On the side of the second respondent, RW1 and RW2 were examined and Exs.R1 to R3 were marked.

5. The Tribunal, based on the materials available on record found that the accident occurred due to the rash and negligent driving of the driver of the Tractor, assessed the compensation at Rs.10,92,800/- with interest at 7.5% per annum from the date of petition and mulcted the liability on the second respondent/insurance company. Feeling aggrieved and being dissatisfied with the quantum so awarded, the appellants/claimants have preferred this appeal seeking enhancement of compensation.



WEB COPY

6. The learned counsel for the appellants submitted that the Tribunal erred in awarding a meagre sum of Rs.10,92,800/- as against the claim of Rs.20,00,000/- made by the appellants / claimants. The learned counsel further submitted that when the claimants pleaded that deceased was earning Rs.15,000/- per month as a Mason, the Tribunal without any justification erred in fixing the notional income at Rs.6,500/- per month. It was also submitted that the amounts awarded towards other heads were meagre.

7. Per contra, the learned counsel for the second respondent/insurance company submitted that after properly analysing the materials and evidence, the Tribunal awarded the compensation, which is just and reasonable and hence, the same does not require any interference by this Court.

8. Heard the learned counsel appearing for the appellants and learned counsel appearing for the second respondent and perused the materials available on record.



WEB COPY

9. The short point of determination in the appeal is whether the appellants/claimants are entitled for enhanced compensation.

10. It is seen that the father of the deceased was examined as P.W.1, and deposed in his evidence that the deceased was aged about 20 years and was earning Rs.15,000/- per month as a Mason. To prove the avocation and income of the deceased, the appellants have not filed any documents. In the absence of any material evidence, the Tribunal fixed a sum of Rs.6,500/- per month as the notional income of the deceased, added 40% of the amount towards future prospects and out of the total amount, deducted 1/2 towards personal expenses of the deceased, adopted 18 multiplier and awarded a sum of Rs.9,82,800/- towards loss of Income. The accident occurred in the year 2013, taking note of the year of accident and the socio economic condition for the year 2013, I am of the view that a sum of Rs.9,000/- can be fixed as notional income. Hence, Rs.9,000/- is fixed as notional income per month, 40% of the amount is added towards future prospects and 1/2 is deducted from the resultant amount towards personal expenses of the deceased. The multiplier 18 is adopted and the loss of Income is arrived at Rs.13,60,800/- $([Rs.9,000 + 3,600] \times 12 \times 18 \times 1/2)$. Accordingly,



the compensation awarded by the Tribunal towards loss of Income is enhanced to Rs.13,60,800/-. This Court is of the considered view that the amounts awarded towards other heads are reasonable and justified and hence the same are confirmed.

11. The Award of the Tribunal is modified as follows:

<i>S.No</i>	<i>Various Heads</i>	<i>Awarded by the Tribunal</i>	<i>Awarded by this Court</i>
1.	Loss of Income	Rs.9,82,800	Rs.13,60,800
2.	Loss of Estate	Rs.15,000	Rs.15,000
3.	Funeral expenses of Tr.Radharavi	Rs.15,000	Rs.15,000
5.	Loss of love and affection of the appellants 1 and 2 at the rate of Rs.40,000/- each.	Rs.80,000	Rs.80,000
	Total	Rs.10,92,800	Rs.14,70,800

12. In the result, the Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,92,800/- is hereby enhanced to Rs.14,70,800/- with interest at the rate of 7.5% per annum from the date of petition. The second respondent/ Insurance Company is directed to deposit the enhanced compensation, as ordered above, along with interest and costs, after deducting the amount if any, already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit, the



appellants are permitted to withdraw their respective shares as per the ratio of apportionment made by the Tribunal on making proper application. It is made clear that the claimants will not be entitled to interest for the compensation amount, in respect of the period of delay in filing this appeal, if any. It is also made clear that the appellants/claimants have to pay the appropriate Court fee, before receiving the awarded amount, if any is payable. There shall be no order as to costs.

08.06.2023

av

Speaking Order: Yes/No
Index: Yes/No
Neutral Citation: Yes/No

To

1.The Special Sub Judge,
(Motor Accident Claims Tribunal)
Tiruvannamalai.

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

Page No.7/8



WEB COPY

C.M.A.No.1145



N.MALA, J.

av

C.M.A.No. 1145 of 2022

08.06.2023