



C.M.A.No.151 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on :27.01.2023

Judgment Pronounced on :02.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.151 of 2023

1.R.Amutha
2.Vatchala
3.V.Kanthan

... Appellants

vs.

1.B.Nirmal Kumar
2.The Divisional Manager,
The New India Assurance Co.Ltd
Division Office, No.179, 3rd Floor,
JN Street,
Puducherry - 605 001

...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.3576 of 2018 dated 05.11.2019 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Cuddalore.

For Appellants :Mrs.Ramya V.Rao

For R2 : Mr.K.Elango



C.M.A.No.151 of 2023

JUDGMENT

WEB COPY

This Civil Miscellaneous Appeal is filed against the award and decree in M.C.O.P.No.3576 of 2018 dated 05.11.2019 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Cuddalore.

2. Notice of motion was ordered.

3. Learned counsel represents for R2.

4. By consent of both the parties, the main C.M.A is taken up for final disposal.

5. For the sake of convenience, the parties are referred to as per the ranking before the Tribunal.

6. The claim petitioners are the appellants herein seeking enhancement of compensation.

7. The factum of the accident, the manner of the accident and rash and negligence driving on the part of the driver of the offending vehicle, are not disputed and hence the findings rendered by the Tribunal are hereby confirmed.

8. The claim petitioners are the widow of the deceased Raji and parents of the petitioners 2 to 3. They have preferred the present appeal for the pecuniary loss sustained by him due to the death of her husband in the road transport accident that happened on 19.05.2018.



C.M.A.No.151 of 2023

9. In the trial, Exhibits P1 to P8 were marked. P.W.1 and P.W.2 were examined on behalf of the respondents. No witness has been adduced either oral and documentary, on the side of the respondents before the Tribunal.

10. On consideration of both oral and documentary evidence, the Tribunal has awarded a sum of Rs.18,61,936/- as total compensation.

11. At the time of the accident, the deceased was working as Auto Driver and hence the notional income has to be now fixed considering the facts. On the date of the accident, the deceased was aged about 35 years and hence, as contended by the learned counsel for the appellant, the proposition laid down by the Supreme Court in Pranay Sethi case, reported in National Insurance Company Limited Vs. Pranay Sethi and others (S.L.P.(Civil) No.25590 of 2014, dated 31.10.2017) (Reported in 2017 (16) SCC 680 has to be applied.

12. The date of the accident is 19.05.2018. The Tribunal has fixed the notional income as Rs.10,000/- for the accident in the year 2018. Since the accident occurred on 19.05.2018, a sum of Rs.12,000/- is hereby fixed as monthly income of the deceased. Future prospects is fixed at 40%. Following the ratio laid down by the Constitution Bench's judgment of the Honourable Apex Court in the case of Pranay Sethi (supra), accordingly, the calculation is made as below:



C.M.A.No.151 of 2023

$$12,000 \times (12,000 \times 40\%) \times 16 \times \frac{2}{3} \times 12 = 21,50,400/-$$

WEB COPY

13. For the 'loss of love and affection' for petitioners 2 and 3, a sum of Rs.40,000/- each is hereby awarded. This Court hereby awards Rs.15,000/- towards 'loss of estate'.

14. The amounts awarded by the Tribunal under the other heads are hereby confirmed.

<i>S. No.</i>	<i>Head</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount awarded by this Court</i>
1.	Pecuniary loss	Rs.17,91,936/-	Rs.21,50,400/-
2.	Loss of Love and affection	Rs. 15,000/-	Rs. 80,000/-
3.	Funeral expenses	Rs. 15,000/-	Rs. 15,000/-
4.	Loss of Consortium for the first petitioner who lost her husband in the rest of her life.	Rs. 40,000/-	Rs. 40,000/-
5.	Loss of estate		Rs. 15,000/-
	Total	Rs.18,61,936/-	Rs.23,00,400/-

15. In total, the claim Petitioner is entitled to a sum of Rs.23,00,400/- (Rupees Twenty three lakhs and four hundred only) with interest at the rate of 7.5% per annum from the date of Petition till date of realisation.



C.M.A.No.151 of 2023

WEB COPY

16. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount **from Rs.18,61,936- to Rs.23,00,400/-** to the extent indicated above. No Costs.

(ii) the 2nd Respondent/Insurance Company is directed to deposit the award amount of Rs.23,00,400/-, with interest and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, claim Petitioners are permitted to withdraw the entire amount with accrued interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) The appellant/claim Petitioner is 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.

02.02.2023

nvi



C.M.A.No.151 of 2023

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation : Yes / No
nvi

To

1. The Motor Accident Claims Tribunal,
Special District Court at Krishnagiri.

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



WEB COPY



C.M.A.No.151 of 2023

RMT.TEEKAA RAMAN, J.,

nvi

Judgment in
C.M.A.No.151 of 2023

02.02.2023