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CMA.No.2523 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.2523 of 2023

1.P.Revathi

2.P.Venkatakrisnan

3.P.Gajalakshmi

... Appellants

-Vs-

1.C.Saroja

2.Divisional Manager,

The New India Assurance Co Ltd.,

DO, 1 Bharathi Road,

Cuddalore – 607 001.

...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.41 of 2020 dt.05.07.2023 on the file of the Motor Accident Claims Tribunal (1st Addl. District and Session Judge – Cuddalore).

For Appellants : Mrs.Ramya V.Rao

For R1 : Notice D/w Vide order dt.16.10.2023

For R2 : Mr.P.Sankaranarayanan



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JUDGMENT

Seeking enhancement of compensation, the claimants in MCOP.No.41 of 2020 before the Motor Accident Claims Tribunal, I Additional District and Sessions Court, Cuddalore are before this Court.

2.The victim of the accident was one Purushothaman, aged 60 years at the time of the accident and was knocked off to his fatal end when the bus bearing Regn.No.TN 31 BC 4006 belonging to the first respondent and insured with the second respondent ran over the motor cycle bearing Regn.No.TN 31 BE 6345, which he was riding at the relevant time. The accident had taken place on 08.11.2019. The victim was stated to be a landlord and was also stated to be undertaking some civil contracts. Since no actual proof of income was produced, the Tribunal reckoned the notional income of the victim at Rs.5,000/-, to which it added another 10% towards future prospects, applied 9 as the multiplier and deducted 1/3rd towards the personal expenditure of the victim and arrived at a net value of dependency at Rs.3,96,036/-. After providing for other conventional heads of compensation, it arrived at a sum of Rs.5,71,036,



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from which it deducted 10% towards the contributory negligence of the victim, since he was not wearing a helmet at the relevant time. This award is now under challenge.

3.Heard both sides.

4.The learned counsel for the appellant submitted that the Tribunal has almost treated the victim of the accident is not worthy of any value when it awarded Rs.5,000/- as the notional income for him and she claimed that this is the only grievance that the claimants/appellants have.

5.The peculiar aspect of the compensatory jurisdiction under the Motor Vehicles Act is that law almost tends to invalidate the life of any citizen who is nearing his senior citizenship or his super superannuation, who is actually required to be cared. But, law being what it is, this Court is bound to follow the same.

6.Rs.12,000/- per month is a more realistic monthly income which the victim might have earned in 2019, when he died. Then this Court applies



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the same method adopted by the Tribunal and arrives at a loss of dependency at Rs.9,50,400/-[12,000+1200(10%)=13,200; 13,200x9x12=14,25,600; Deducting 1/3rd towards personal expenditure 14,25,600 x 2/3 = Rs.9,50,400/-]. Retaining the compensation awarded for other conventional heads of compensation and deducting the sum arrived by 10% towards the contributory negligence of the victim, this Court arrives at a net value of compensation at 10,13,000/-. The break-up is as below;

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	3,96,036/-	9,50,400/-	Enhanced
2.	Loss of Spousal Consortium	44,000/-	44,000/-	Confirmed
3.	Loss of Parental Consortium	88,000/-	88,000/-	Confirmed
4.	Funeral expenses and loss of estate	33,000/-	33,000/-	Confirmed
5.	Transportation Charges	10,000/-	10,000/-	Confirmed



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	Total	5,71,036/-	11,25,400/-	
Deducting 10% towards Contributory Negligence		5,14,000/-	10,12,860/- - Rounded off to 10,13,000/- -	Enhanced by 4,99,000/-

7.To conclude, this Court partly allows the appeal and enhances the compensation from Rs.5,14,000/- to Rs.10,13,000/-, together with interest at 7.5% per annum, from the date of petition till the date of deposit. This Court is informed that the second respondent insurance company has already deposited the sum awarded by the Tribunal. It is now required to deposit the differential sum with interest at 7.5% within a period of six (6) weeks from the date of receipt of a copy of this order. The enhanced portion of the compensation is required to be apportioned in the same ratio in which the Tribunal has apportioned the compensation. On such deposit, the appellants are permitted to withdraw the award amount, now determined by this Court, along with interest and costs, less the amount if any, already withdrawn. The appellants are



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directed to pay the necessary Court Fee, if any, on the enhanced award

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amount. No costs.

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- 1.The Motor Accident Claims Tribunal,
The 1st Addl. District and Session Court,
Cuddalore.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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N.SESHASAYEE, J.,

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