



C.M.A.No.260 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

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1.P.Marimuthu
2.Maheswari
3.Ashok
4.Ashwini

... Appellants

vs.

1.Senthil Kumar
2.M/s.The Oriental Insurance Co Ltd.,
Siva Complex, Saradha College Main Road,
Salem.

(The respondent-1 remained set ex-parte before Tribunal,
hence notice may be dispensed with R1 in this appeal) ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.08.2021 made in M.C.O.P.No.1598 of 2018 on the file of the Motor Accidents Claims Tribunal (Special District Court) at Salem.

For Appellants : Mr.Ma.P.Thangavel
For Mr.M.Lokesh

For R2 :Mr.J.Chandran



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JUDGMENT

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Claim petitioners are the appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal (Special District Court), Salem, vide judgment and decree dated 09.08.2021 in M.C.O.P.No.1598 of 2018.

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 heard the learned counsel appearing on behalf of the claim petitioners and the learned counsel appearing on behalf of the Insurance Company.

5. The main contention of the learned counsel for the appellants/claim petitioners is that the deceased working as an Assistant Field Officer in Parry Agro Industrial Ltd., and earned a sum of Rs.25,000/- per month and to substantiate the same P.W.3/employer has been examined and marked documents Exs.P9 to P11 and 21 to 23, and the income includes all kinds of emoluments and other perks, but the Tribunal by fixing a lesser



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income i.e., Rs.16,000/- and failed to add 40% 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 '17' multiplier and deducting 1/3rd towards the personal and living expenses of the deceased, has awarded Rs.22,61,000/- towards loss of income/dependency and hence, they seek for enhancement.

6. During the trial, on the side of the claim petitioners, P.W.1 to P.W.3 were examined and Exs.P1 to 24 were marked and on the side of the respondents, none was examined and no document was marked.

7. After going through the documents relied by the petitioners, the claims tribunal has rightly come to the conclusion and fix a sum of Rs.16,000/- per month, I am inclined to accept the finding of the claims tribunal. However, the claims tribunal failed to add 40% future prospects.

8. In view of the above, by confirming the monthly income of Rs.16,000/- per month as fixed by tribunal; adding 40% 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 '17' multiplier, as per the decision of the Hon'ble Supreme Court in Sarla Varma Vs. Delhi Transport Corporation Ltd.,



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reported in TNMAC 2009 (2) SC and by deducting 2/3rd towards the personal and living expenses of the deceased, the loss of dependency/income

is re-assessed as under:-

Monthly income	:Rs.16,000/-
Future Prospects @40%	:Rs.6,400/-
Total Income	:Rs.22,400/-
Loss of dependency/income	:Rs.22,400*12*17*2/3
	:Rs.30,46,400/-

9. Further the claims Tribunal has totally awarded Rs.60,000/- towards loss of consortium-loss of love and affection which is very meager. Hence, I am inclined to modify the award under the head 'loss of love and affection' and awarded Rs.40,000/- each to the appellants. The award of Rs.25,000/- under the head 'Funeral expenses', is on the higher side and a sum of Rs.15,000/- is awarded under the said head. No amount is awarded towards 'loss of estate' and 'transportation'. Therefore, a sum of Rs.15,000/- each is awarded.

10. In view of the above discussion, the award of the Tribunal is enhanced from Rs.22,61,000/- to 32,51,400/- as detailed hereunder.



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No	Head	Amount awarded by the tribunal Rs.	Award now modified Rs.	Enhanced/ Reduced
1	Loss of dependency	Rs.21,76,000/-	Rs.30,46,400/-	Enhanced
2	Funeral Expenses	Rs.25,000/-	Rs.15,000/-	Reduced
3	Loss of Estate	Nil	Rs.15,000/-	Now Awarded
4	Transport Expenses	Nil	Rs.15,000/-	Now Awarded
5	Love and Affection	Rs.60,000/-	Rs.1,60,000/- (Rs.40,000/- to each claim petitioners)	Enhanced
	Total	Rs.22,61,000/-	Rs.32,51,400/-	Rs.9,90,400/-

11. In the result, it is ordered as follows:-

(i) The judgment and decree dated 09.08.2021 made in M.C.O.P.No.1598 of 2018 on the file of MACT/Special District Court at Salem, stands modified to the limited extent that the compensation of Rs.22,61,000/- awarded by the claims Tribunal is enhanced to Rs.32,51,400/- and the interest awarded by the claims Tribunal remains unaltered.

(ii) 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.

(iii) The 2nd respondent/Insurance Company is directed to deposit



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the enhanced compensation amount of Rs.9,90,400/- with proportionate interest and costs to the credit of M.C.O.P.No.1598 of 2018 on the file of the Motor Accident Claims Tribunal (Special District Court), Salem, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any.

(iv) On such deposit, the appellants/claim petitioners are permitted to withdraw the same, as ration apportioned by the Tribunal, on making necessary applications.

12. With the above directions, the Civil Miscellaneous Appeal stands partly allowed. No costs.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation : Yes/ No



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To

1. The Motor Accidents Claims Tribunal (Special District Court) at Salem.

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



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RMT.TEEKAA RAMAN, J.,

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