



WEB COPY



CMA No.257 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 16.02.2023

PRONOUNCED ON : 23.02.2023

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.257 of 2023

1. Kuppan @ Kuppusami
2. Usha Rani @ Usha
3. Selvarani

.. Appellants/petitioners

Vs.

1. Sasikala

2. ICICI Lombard General Insurance
Company Limited,
Arihant Plaza No.84 & 85,
I Floor, Wall Tax Road,
Parrys Corner, Chennai – 600 003.

.. Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to enhance the award dated 20.12.2021 passed in MCOP No.3798 of 2019 on the file of the Motor Accident Claims Tribunal [Chief Judge, Court of Small Causes], Chennai.

For Appellants : Mrs.M.Malar

For Respondents : Mr.B.Siva Kollappan (for R2)



CMA No.257 of 2023

JUDGMENT

WEB COPY

Claim petitioners are the appellants seeking enhancement of compensation awarded by the Motor Accident Claims Tribunal (Chief Judge, Court of Small Causes), Chennai, vide judgment and decree dated 20.12.2021 in MCOP No.3798 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 petitioners, is that the claims tribunal by fixing a lesser income i.e. Rs.10,000/- as notional income of the deceased, adding 10% towards future



CMA No.257 of 2023

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 '11' multiplier and deducting 1/3rd towards his personal and living expenses, has awarded Rs.9,68,000/-, towards loss of income/dependency and hence, she seeks for enhancement.

6. As per Ex.P4, post mortem certificate, the deceased was aged 54 years on the date of the accident and PW1 has deposed that the deceased was working as a Mason. The accident is of the year 2019 viz., 18.05.2019 and hence, this Court is of the view that notional income of Rs.12,000/- could be reasonable and accordingly, the loss of dependency/income is reassessed as under

Monthly income	-	Rs.12,000/-
Future Prospects @ 10%	-	Rs. 1,200/-
Total Income	-	Rs.13,200/-
Loss of dependency/income	=	Rs.13,200/- x 12 x 11 x 2/3
	=	Rs.11,61,600/-

7. Further, the award of the tribunal under other heads viz., Rs.15,000/- towards loss of estate; Rs.15,000/- towards Funeral Expenses and Rs.40,000/- each to claimants 1 to 3, towards loss of love and affection,



CMA No.257 of 2023

is just and reasonable and hence, the same is confirmed.

WEB COPY

8. In view of the above discussion, the award of the tribunal is enhanced from Rs.11,18,000/- to Rs.13,11,600/- as detailed hereunder.

Pecuniary loss	= Rs.11,61,600/-
Loss of Estate	= Rs. 15,000/-
Loss of love and affection @ Rs.40,000/- each to claimants 1 to 3	= Rs. 1,20,000/-
Funeral Expenses	= <u>Rs. 15,000/-</u>
Amount now awarded	= Rs.13,11,600/-
Amount awarded by the Tribunal	= <u>Rs.11,18,000/-</u>
Enhanced Amount	= <u>Rs. 1,93,600/-</u>

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

(i) The judgment and decree dated 20.12.2021, made in MCOP No.3798 of 2019 on the file of the Motor Accident Claims Tribunal [Chief Judge, Court of Small Causes], Chennai, stands modified to the limited extent that the compensation of Rs.11,18,000/- awarded by the claims tribunal is enhanced to Rs.13,11,600/- and the interest awarded by the claims tribunal remains unaltered.

(ii) Additional Court fee, if any, to be paid by the claim petitioners



WEB COPY



CMA No.257 of 2023

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 the enhanced compensation amount of Rs.13,11,600/- with proportionate interest and costs to the credit of MCOP No.3798 of 2019 on the file of the Motor Accident Claims Tribunal [Chief Judge, Court of Small Causes], Chennai, within a period of four 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 apportioned by the tribunal, on making necessary applications.

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

23.02.2023

Index : Yes/No

Neutral Citation : Yes/No.

ars



CMA No.257 of 2023

RMT.TEEKAA RAMAN,J.,
ars

WEB COPY

To

The Chief Judge,
Court of Small Causes,
Motor Accident Claims Tribunal, Chennai.

Pre-delivery Judgment in
CMA No.257 of 2023

23.02.2023