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C.M.A No.2538 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2023

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A.No.2538 of 2023

1.D.Karthickrajan
2.K.Swaminathan
3.Vanitha
4.Meena
5.Selvi

... Appellants

Vs.

1.M.Dhamotharan

2.Royal Sundaram General Insurance Co.Ltd.,
Subramaniam Building, 2nd Floor,
No.1, Club House Road, Anna Salai,
Chennai-600 002.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, seeking to enhance the amount awarded in MCOP.No.149 of 2017 dated 21.03.2023 on the file of the Motor Accidents Claims Tribunal, (Special Sub Court No.1, Small Causes Court), Chennai.

For Appellants : Mr.K.Varadhakamaraj

For Respondents : Mr.G.Vasudevan for R2

**JUDGMENT**

In an accident that took place on 14.11.2016 when a lorry bearing No.TN-23-AE-2083 dashed against a car, in which the victim, Susila was travelling as a passenger died. Seeking compensation, her husband and her four children approached the Tribunal. The victim of the accident was stated to be 60 years old and was doing some business in textiles from her home. The Tribunal had reckoned her monthly income at Rs.10,000/- per month, to which it added another 10% towards future prospects of increase in income, applied 9 as a multiplier and deducted 1/4 towards personal expenditure of the victim and arrived at the net compensation under the head 'loss of dependency' at Rs.8,91,000/-. After including compensation on other conventional heads, the Tribunal has awarded a sum of Rs.11,21,000/- as compensation, and the breakup is as below:

Sl. No.	Description	Amount awarded by Tribunal (Rs)
1.	Total loss of dependency	8,91,000
2.	Loss of consortium	2,00,000
3.	Loss of estate	15,000
4.	Funeral expenses	15,000
	Total	11,21,000

2. Aggrieved by the perceived inadequacy of the compensation, the



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claimants are now before this Court.

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3.Since the claimants have preferred this appeal challenging the quantum awarded, this Court considers that notice to the first respondent is not necessary.

4.Heard Mr.K.Varadhakamaraj, the learned counsel for the appellant, and Mr.G.Vasudevan, the learned counsel for the second respondent.

5.The learned counsel for the appellant submitted that the Tribunal ought to have been realistic and reasonable in fixing the notional income for the victim. So far as the other conventional heads are concerned, the learned counsel does not seem to have any qualms.

6.A woman in this country is capable of multi-tasking and indeed, they are multi-tasking. Therefore, reckoning the notional income only in terms of any job that she may engage in does not speak the whole truth but only discloses partial facts. This Court, therefore, considers it appropriate to fix Rs.12,000/- as notional monthly income for the victim, to which 10% is added towards future prospects, and adopting 9 as a multiplier, and



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deducting it by 1/4, the total compensation arrived at under the head 'loss of dependency' is Rs.10,69,200/-. The award of the Tribunal under other conventional heads are confirmed, and the details are as below:

Sl. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted
1.	Loss of dependency	Rs.8,91,000/-	Rs.10,69,200/-	enhanced
2.	Loss of consortium	Rs.2,00,000/-	Rs.2,00,000/-	confirmed
3.	Loss of estate	Rs.15,000/-	Rs.15,000/-	confirmed
4.	Funeral expenses	Rs.15,000/-	Rs.15,000/-	confirmed
	Grand Total	Rs.11,21,000/-	Rs.12,99,200/-	enhanced by Rs.1,78,200/-

7.The appeal stands partly allowed, and the compensation is enhanced from **Rs.11,21,000/-** to **Rs.12,99,200/-**. The second respondent is stated to have deposited the entire compensation amount as awarded by the Tribunal, and it is now required the deposit the differential sum with interest at 7.5% per annum from the date of the claim petition till the date of deposit, within the period of six (6) weeks from the date of receipt of a



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copy of this judgment. On such deposit being made, the appellants are permitted to withdraw the award amount, along with proportionate interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn. The appellants are directed to pay the necessary Court Fee, if any, on the enhanced award amount. No Costs.

20.12.2023

Anu

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

The Motor Accidents Claims Tribunal,
(Special Sub Court No.1, Small Causes Court), Chennai.

N.SESHASAYEE, J.



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