



C.M.A.No.2844 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.2844 of 2017

- 1.Sadaiyappan
- 2.Karthika
- 3.Munia Gaunder
- 4.Logasundari

... Appellants

Versus

- 1.P.Murugan
- 2.Sri Ram General Insurance Co. Ltd.,
No.66, II Floor, City Centre Complex,
Thirumamalai Pillai Road,
Chennai – 17.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act against the judgment and decree dated 19.09.2016 made in MACT O.P.No.806 of 2013 on the file of the Motor Accident Claims Tribunal, (III Additional District Court, Poonamallee.

For Appellants : Mr.K.Varadha Kamaraj



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For Respondents

For R1 : Exparte

For R2 : Mr.S.Dhakshnamoorthy

J U D G M E N T

This Civil Miscellaneous Appeal arises against the award passed by the Motor Accident Claims Tribunal, III Additional District Court, Poonamallee, Chennai, in M.C.O.P.No.806 of 2013 dated 19.09.2016.

2. The claim petitioners are the appellants herein filed this appeal seeking enhancement of compensation. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3. It is the case of the appellants/claimants that on 15.05.2013 at 11.00 p.m, when the 2nd petitioner's brother, working as mechanic under the repaired lorry bearing Regn.No.TN-20-AE-3878 at Tambaram to Puzhal Bye-pass road from South to North direction near K.P.S.Farm, Paraniputhur bridge with lighting the indicator, the 1st respondent lorry bearing



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Regn.No.TN-22-AU-7979 driven by its driver in a rash and negligent manner, from Tambaram to Puzhal of the same direction and dashed behind the repaired lorry and wheels of the said lorry ran over the 2nd petitioner's brother and owner's son of the repaired lorry, as a result of which, both of them died on the spot. Hence, the claim petition.

4. Before the Tribunal, on behalf of the claimants, P.W.1 to P.W.4 were examined and Ex.P1 to Ex.P12 were marked and on the side of the Respondents no one was examined and no document was marked.

5. On appreciation of the materials before it, the Tribunal awarded compensation as follows:

(a) Loss of income	:	Rs. 4,80,000/- (5000x12x16x1/2)
(b) Love and affection	:	Rs. 1,00,000/-
(c) Funeral expenses	:	Rs. 25,000/-

		Rs. 6,05,000/-

The said sum was directed to be paid by the 2nd respondent to the 2nd claim petitioner and along with interest at 7.5% per annum from the date of petition till the date of realization and dismissed the claim against the claim



petitioners 1, 3 and 4.

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6. Learned counsel for the appellants/claimants submitted that though the petitioners claimed Rs.18,00,000/- the Tribunal awarded only Rs.6,05,000/-. The Tribunal erred in awarding compensation to the 2nd petitioner since the petitioners 1, 3 and 4 are the dependents of the deceased. The Tribunal erred in awarding Rs.4,80,000/- towards loss of income of the deceased as against the claim of Rs.12,00,000/- and the Tribunal erred in fixing the income of the deceased at Rs.5000/- per month as against the claim of Rs.10,000/- per month. The Tribunal erred in fixing multiplier method “16” when the age of the deceased is 20. The compensation awarded under the head funeral expenses and loss of income are very meagre and the same have to be enhanced.

7. The learned counsel for the 2nd respondent, on the other hand, submitted that the compensation awarded by the Tribunal is fair and justified and it does not require any interference by this Court.



8. Heard the learned counsel appearing for the parties and perused the records.

9. Considering the facts and circumstances and on perusal of Ex.P9, this Court is inclined to fix the monthly income of the deceased at Rs.6500/- and considering the age of the deceased and as per *Sarala Varma's* case and *Pranay Sethi's* case, 18 is the right multiplier. Accordingly, Rs.9,82,800/- (Rs.6,500/- + 40% future prospects = Rs.9,100/-, Rs.9,100x12x18x1/2) is awarded. The Tribunal awarded Rs.1,00,000/- towards love and affection since the dependents of the deceased is one and hence, it has to be reduced to Rs.40,000/-. Though the Tribunal has not awarded any compensation towards loss of estate, this Court is inclined to award Rs.15,000/- and the Tribunal awarded Rs.25,000/- towards funeral expenses which appears to be excessive and hence, it has to be reduced to Rs.15,000/-.

10. In the light of the said discussions, the modified award is as follows:



<i>Sl.Nos.</i>	<i>Heads</i>	<i>Compensation</i>
1.	Loss of income	Rs.9,82,800/- (9100x12x18x1/2)
2.	Love and affection	Rs.40,000/-
3.	Loss of estate	Rs.15,000/-
4.	Funeral expenses	Rs.15,000/-
<i>Total</i>		Rs.10,52,800/-

Accordingly, the amount awarded by the Tribunal is enhanced from Rs.6,05,000/- to Rs.10,52,800/- together with interest at 7.5% per annum from the date of petition till the date of deposit of compensation.

11. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.6,05,000/- to Rs.10,52,800/-, with 7.5% interest per annum to the extent indicated above. No Costs.

(ii) the Insurance Company is directed to deposit the enhanced award amount, with interest and costs before the Tribunal, within a period of six weeks from the date of receipt of a copy of this order.

(iii) on such deposit being made, the 2nd claim Petitioner / 2nd Appellant is entitled to get the enhanced award amount. The claim Petitioner is permitted to withdraw the enhanced award amount with proportionate



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interest and costs, less the award amount already withdrawn, if any, by
filing necessary application before the Tribunal.

(iv) the 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.

30.06.2023

Index:yes/no
Internet:yes/no
ata

To

The Presiding Officer,
Motor Accident Claims Tribunal,
III Additional District Court,
Poonamallee, Chennai.



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A.A.NAKKIRAN.J.,

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