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C.M.A.No.324 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2023

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.324 of 2023

- 1.Samundeswari
- 2.Madhusudhan (Minor)
- 3.Madhumitha (Minor)
- 4.Vasandha

... Appellants

[Cause title accepted vide Court order dated 23.12.2022 made in CMP.No.21423 of 2022 in CMA.SR.No.127516 of 2022]

Vs.

- 1.S.Sathyamoorthy
- 2.Reliance General Insurance Company Limited,
Motor Third Party Claims Office,
“Reliance Tower” Legal Section,
No.6, Haddows Road,
Chennai – 600 006.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the common judgment and decree dated 22.12.2021 made in MCOP.No.1028 of 2019 on the file of the Motor Accidents Claims Tribunal (Chief Judge, Court of Small Causes), Chennai.



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For Appellants : Mr.K.Sivakumar

For Respondents : Mr.P.Suresh Srinivasan (for R2)

J U D G M E N T

The Appeal has been filed against the common judgment and decree dated 22.12.2021 made in M.C.O.P.No.1028 of 2019 on the file of the Motor Accidents Claims Tribunal (Chief Judge, Court of Small Causes), Chennai.

2.The claim petitioners are the appellants herein, seeking enhancement of compensation awarded in M.C.O.P.No.1028 of 2019.

3.For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the first respondent's vehicle, insured with the second respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash



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and negligent driving of the driver of the first respondent's vehicle, insured with the third respondent are hereby confirmed.

5.On the point of quantum of compensation, both the parties have been heard. The main grievance of the claim petitioners is that the deceased was a Proprietor of M/s.Magesh Electrical and Plumbing works and was earning Rs.40,000/- per month and they have filed Ex.P14/Visiting card. The Trial Court has considered that Ex.P14/Visiting Card is not a sufficient one to prove the income of the deceased and fixed the notional income at Rs.11,000/- per month and for future prospects 25% was added and the other heads of compensation are properly awarded.

6.The respondent/Insurance Company entered appearance. Heard, the learned counsel for the respondent, by consent of both the parties, the case is taken up for final disposal.

7.A perusal of pleadings and evidence of P.W.1 (Ex.P14), marked, no person connected with Ex.P14 was examined, assumes significance. Since the



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accident is of the year 2019, the notional income is fixed at Rs.13,000/- per month and 25% to be added as future prospects, hence monthly income comes to Rs.16,250/-. Since there are four persons in the family of the deceased, 1/4th deduction has to be made and as per the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma & Others .Vs. Delhi Transport Corporation & another**, reported in **2009 (2) TNMAC 1 (SC)**, right multiplier is “14” and the same is adopted and hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$\text{Rs.16250/-} \times 12 \times 14 \times \frac{3}{4} = \text{Rs.20,47,500/-}$$

8.Further, the petitioners are entitled for Rs.15,000/- towards loss of estate, Rs.15,000/- towards Funeral Expenses and Rs.40,000/-, each towards loss of love affection Rs.1,60,000/- [Rs.40,000/- x 4].

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	20,47,500/-
2	Loss of love and affection	1,60,000/-
3	Funeral expenses	15,000/-
4	Loss of Estate	15,000/-
	Total Compensation	22,37,500/-



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9. In total, the claimants are entitled to a sum of Rs.22,37,500/- (Rupees Twenty Two Lakhs Thirty Seven Thousand and Five Hundred only) and the interest awarded by the Tribunal at the rate of 7.5% per annum is also confirmed.

10. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.19,22,500/-/- to Rs.22,37,500/- 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 eight weeks from the date of receipt of a copy of this order.

(iii) on such deposit being made, the claim Petitioners 1 & 4/Appellants 1 & 4 are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. They are permitted to withdraw their entire share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal.



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(iv)The claim Petitioners 2 & 3/Appellants 2 & 3 are minors. They are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The same shall be kept in an interest bearing fixed deposit in any one of the Nationalized Bank, till they attain majority.

(v) the claim Petitioners are 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.

10.02.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order

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To

The Presiding Officer,
Motor Accident Claims Tribunal,
(Chief Judge, Court of Small Causes),
Chennai.



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RMT.TEEKAA RAMAN.J,

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