



C.M.A.No.236 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

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1. Pachiyammal,
W/o Govintharaj (late)
 2. Velmurugan,
S/o Govintharaj (late)
 3. Raja,
S/o Govintharaj (late)
 4. Duraisamy,
S/o Palanimuthu (died)
 5. Meenambal,
W/o Duraisamy
- ... Appellants/Claimants

.. Vs ..

1. P.Saravanan
S/o Palanimuthu
 2. The Branch Manager,
The New India Assurance Co. Ltd.,
No.99/C-3, Ist Floor,
Opp New Bus Stand, Perambalur.
Policy No.7309063117020000478
- ... Respondents



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PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 28.12.2020 made in M.C.O.P.No.246 of 2018 on the file of the Motor Accidents Claims Tribunal Judge and Sessions Judge, Perambalur.

For Appellants : Mr.C.Vindhusan

For R-2 : Mr.R.Sivakumar

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JUDGMENT

Claimants are the appellants herein seeking enhancement of compensation awarded in M.C.O.P.No.246 of 2018, dated 28.12.2020 on the file of the Motor Accidents Claims Tribunal Judge and Sessions Judge, Perambalur.

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

3. The factum of the accident, manner of the accident and negligence on the part of the driver of the first respondent's vehicle are



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not in dispute and hence, the same are hereby confirmed.

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4.The short facts that are essential for the disposal of this appeal is that the claim petitioners have preferred the claim petition in M.C.O.P.No.246 of 2018 before the Motor Accidents Claims Tribunal, Perambalur, alleging that on 09.11.2017 at about 8.30 pm, the deceased Govindaraj was standing at the left side road, opposite to Roever Colege, Thannerpandhal on Chennai-Trichy NH-45 road. At that time, the first respondent's share auto bearing Registration No.TN 46 C 9487 was proceeding in the wrong side in a rash and negligent and careless manner with hectic and uncontrollable speed. Due to which, the said Govintharaj was thrown away and have sustained fatal injuries and died on the spot. The driver of the share auto is directly responsible for the accident. Therefore, the first respondent herein as the owner and the second respondent herein as the insurer of the offending vehicle are jointly, severally, vicariously and statutorily liable to pay compensation to the claimants.



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5. Before the Tribunal, on the side of the claimants, P.W.1 was examined and Ex.P1 to Ex.P6 have been marked. On behalf of the second respondent, R.W.1 was examined and Ex.R1 and Ex.R2 have been marked.

6. The Tribunal, after considering both oral and documentary evidence adduced on the side of the claimants, has come to a conclusion that the accident has taken place only due to the rash and negligent driving of the driver of the first respondent (before the Tribunal) and awarded a total sum of Rs.7,23,400/- together with interest at 7.5% per annum from the date of the claim petition till the date of deposit. Having not satisfied with the award passed by the Tribunal, the claimants have preferred this appeal before this Court seeking enhancement of compensation.

7. On the point of quantum, both the parties were heard and perused the materials available on record.



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8. On a perusal of records, it is seen that as per Ex.P.2- Post-Mortem and Ex.P3-Death Certificate, the age of the deceased was 52 years and he was working as Watchman at Roever Agri College, perambalur, earning Rs.6,500/- per month as per Clause 5 and 6 of the claim petition. The tribunal has fixed Rs.6000/- as National income . Taking into consideration the pleadings and date of the accident, this Court is inclined to fix Rs.6,500/- as monthly income of the deceased. Accordingly, Rs.6,500/- is taken as the monthly income of the deceased at the time of accident the deceased was aged about 52 years accordingly multiplier is "11" is adopted by following the decision of ***Sarala Verma's Case (2009) 2 TN MAC 1(SC)*** and as per the guidelines of the Hon'ble Supreme Court in ***National Insurance Company Limited Vs. Pranay Sethi and other -2017 (2) TNMAC 609(SC)***, the deceased is entitled for future prospects of 10%.

$$\begin{aligned} 6,500 + 10\% &= 6,500 + 650 = 7,150 \times 12 \times 11 \times 3/4 \\ &= 7,07,850/- \end{aligned}$$

9. The amounts granted by the Tribunal under the other heads are confirmed.



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10. The break-up of the compensation is as follows:

<i>S. No.</i>	<i>Head</i>	<i>Awarded by the tribunal</i>	<i>Awarded by this Court</i>
1.	Loss of income	6,53,400/-	7,07,850/-
2.	Loss of Estate	15,000/-	15,000/-
3.	Funeral expenses	15,000/-	15,000/-
4.	Loss of Consortium	40,000/-	40,000/-
	Total	7,23,400/-	7,77,850/-

In total, the claimants are entitled to a sum of Rs.7,77,850/- (Rupees Seven Lakhs Seventy Seven Thousand Eight Hundred and Fifty only). Interest at the rate of 7.5% per annum fixed by the Tribunal is also confirmed.

11. In the result,

- I. This Civil Miscellaneous Appeal is partly allowed enhancing the compensation from Rs.7,23,400/- to **Rs.7,77,850/-**
- II. The interest granted by the Tribunal at 7.5% stands confirmed.



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III.The second respondent-Insurance Company is directed to deposit the enhanced amount within a period of six weeks from the date of receipt of a copy of this judgment, less the amount already deposited, if any.

IV.On such deposit being made, the appellants herein/claimants are permitted to withdraw the enhanced award amount with proportionate interest, less the amount already withdrawn, if any.

V. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation amount.

VI.No order as to costs.

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Index : Yes/No

Internet : Yes

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RMT.TEEKAA RAMAN, J.

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To

1. The Motor Accidents Claims Tribunal
Judge and Sessions Judge, Perambalur.
2. The Branch Manager,
The New India Assurance Co. Ltd.,
No.99/C-3, Ist Floor,
Opp New Bus Stand, Perambalur.
Policy No.7309063117020000478
3. The Section Officer,
V.R. Section, High Court,
Madras.

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