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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.10.2023

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.591 of 2017

1. Vasantha Alice
2. Chalkey Sweety (Minor)
3. Shoran Sweety (Minor)
(minors petitioners 2 & 3 are rep by mother
and next friend)

... Appellants

Vs

1. Krishna Agencies,
No.540, EVR Periyar High Road,
Arumbakkam, Chennai-106.

2. The New India Assurance Co. Ltd.,
No.92, East Coast Chambers, First Floor,
GN Chetty Road,
T.Nagar, Chennai.

... Respondents

Civil Miscellaneous Appeal filed under Article 173 of Motor Vehicles Act 1988, against the Judgment and decree dated 21.01.2015 in MACTOP. No.3835 of 2007 passed by the Motor Accidents Claims Tribunal/Chief Small Causes Court, Chennai.

For Appellant : K.Varadakamaraj

**JUDGMENT**

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2. It is the case of the appellants/claimants that on 27.03.2007 at about 3.00 pm when the deceased was riding the motor cycle bearing Reg. No. TN20 AC 4617 from Red Hills towards Tiruvallur near Poochi Athipattu bridge, at that that, a van bearing Reg. No.Tn 02 X 6094 coming from the opposite direction, driven by its driver, in a rash and negligent manner, hit against the deceased motor cycle and caused the fatal accident and the deceased died on the spot. Thereafter, the appellants, who are the wife and daughters of the deceased, have filed a claim petition before the Tribunal against the respondents, claiming a sum of Rs.15,00,000/- as compensation.

3. Before the Tribunal, during trial, in order to prove his case, the appellants have examined three witnesses and marked as many as 22 documents viz., Exs.P1 to P22. On the side of the respondents, no



witness was examined and no document was adduced.

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4. After analyzing the oral and documentary evidences and considering the pleadings made by both the parties, the Tribunal has awarded a sum of Rs.9,61,000/- as compensation to the claimants.

5. Not being satisfied with the quantum of compensation awarded by the Tribunal, the appellants have come forward with this appeal before this Court seeking enhancement of compensation.

6. The learned counsel for the appellants would submit that the present appeal has filed for not awarding any amount in respect of future prospects. Further, the Tribunal has awarded in all other heads, which are very low and the same requires to be enhanced.

7. Per contra, the learned counsel appearing for the second respondent / Insurance Company would submit that the Tribunal has awarded a sum of Rs.7,56,000/- towards loss of pecuniary benefits, which is highly excessive and other heads awarded by the Tribunal are just and reasonable. Hence, the learned counsel prays to dismiss the appeal.



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8. Heard the learned counsel for the appellant as well as the first respondent and also perused the available materials on record before this Court.

9. The appellants are the claimants. Admittedly, the first appellants husband died due to the accident. The accident had occurred only due to the rash and negligent driving of the van. It is the main grievance of the appellants that the Tribunal has not awarded any compensation towards future prospects and also awarded very meager amount in respect of loss of love and affection.

10. On a perusal of the impugned order, it is found that the deceased was working in Reliance Logistics Ltd and aged about 44 years and was earning a sum of Rs.10,000/- per month at the time of the accident. As per the judgment passed by the Hon'ble Apex Court in the case of Sarla verma, the Tribunal has adopted '14' multiplier and deducted 1/4th from the income of the deceased and fixed the notional income Rs.6000/- per month as the appellants have not proved the income of the deceased. The Tribunal has awarded a sum of Rs.7,56,000



towards loss of pecuniary benefits, which is perfectly in order. But the Tribunal has not awarded any amount in respect of future prospects and the appellants are entitled to get compensation in respect of future prospects at 25% as the deceased is aged about 44 years at the time of the accident. The other heads awarded by the Tribunal are just and reasonable which does not warrant any interference.

11. The award amount of compensation of Rs.9,61,000/- is enhanced to Rs.11,50,000/- under the following heads :-

Sl.No	Heads	Amount awarded by the Trial Court (Rs.)	Amount awarded by this Court (Rs.)
1	Loss of pecuniary benefits	7,56,000	7,56,000
2	Loss of consortium	25,000	25,000
3	Love and affection	1,50,000	1,50,000
4	Funeral expenses	25,000	25,000
5	Transportation	5,000	5,000
6	Future prospects		1,89,000
	Total	9,61,000	11,50,000/-

12. With the above modification, the order of Tribunal in MACTOP No.3835/2007 is modified and this appeal is partly allowed.



13. The Compensation amount of Rs.9,61,000/- is enhanced to **Rs.11,50,000/-** with interest at the rate of 7.5% per annum from the date of petition till the date of realization. The second respondent -Insurance Company is directed to deposit the entire award amount as ordered by this Court with interest and thereafter, after deducting the amount if any already deposited, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant / claimant is permitted to withdraw the same, on making proper application before the Tribunal. **The apportionment of compensation between the claimants shall be as ordered by the Tribunal and the appellants are not entitled to claim interest for the period of delay in filing the appeal.** No costs.

10.10.2023

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Index : Yes/no

Internet : Yes/no

Speaking Order/Non speaking order



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M.DHANDAPANI.,J.

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To

The Motor Accidents Claims Tribunal/
Chief Small Causes Court, Chennai.

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