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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.834 of 2017

1.R.Mallika
2.V.Sudha
3.V.Kirthika
4.V.Saikrishna ... Appellants

..Vs..

1.Thandamudi Sathyanarayana
2.Mandina Ganga Rao
3.The Branch Manager
United India Insurance Company Ltd.,
Chityala, Nidadavollu
West Godhavari District
Andhra Pradesh. ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and decree dated 30.04.2004 made in M.C.O.P No.171 of 2001 on the file of the Motor Accident Claims Tribunal/ Additional District and Sessions Judge and the Special Court for Essential Commodities Cases, Coimbatore.

For Appellants : Mr.V.Karthikeyan
For Mr.V.Nicholas

For Respondents : Mr.M.J.Vijayaragavan for R3

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JUDGMENT

This appeal has been filed by the claimants seeking enhancement of compensation under the impugned award dated 30.04.2004 passed by the Motor Accident Claims Tribunal/ Additional District and Sessions Judge and the Special Court for Essential Commodities Cases, Coimbatore in M.C.O.P No.171 of 2001.

2. The details of the compensation awarded by the Tribunal under the impugned award are as follows:

Heads	***Award Amount (Rs.)***
Loss of dependency Monthly Income Rs.1250-450 (800 x 12 x 15 = Rs.1,44,000/-) plus Loss of Expectation of Life- Rs.10,000/-	1,54,000/-
Funeral Expenses	2,000/-
Loss of Consortium	5,000/-
Loss of Estate	2,500/-
Total	**1,63,000/-**

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3. Before the Tribunal, the Appellants/claimants has filed 11 documents which were marked as Ex.P1 to Ex.P11 and the claimants were examined as PW1 to PW4 on their side. On the side of the 3rd Respondent/Insurance Company, neither any document was filed nor any witness was examined.

4. The learned counsel appearing for the Appellants/Claimants submitted that the entire quantum of compensation awarded by the Tribunal is very low. As seen from Ex.P5 Vijaya Bank passbook, the deceased was doing contract business in the name and style of Kemoplast and was earning Rs.16,666/-, but the Tribunal has fixed only Rs.1250/- as monthly income of the deceased which is very low. The Tribunal has failed to award any amount towards love and affection to the claimants 2 to 6 who are the daughters of the deceased. He further submitted that the compensation awarded under the heads namely consortium, loss of estate and funeral expenses are very meagre and hence, she prayed to enhance the compensation.

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5. The learned counsel appearing for the third respondent/Insurance Company submitted that the appellants have not let in any material evidence to prove that the deceased was earning a sum of Rs.16,666/- as monthly income at the time of accident. In the absence of material evidence, the Tribunal fixed a sum of Rs.1,250/- as monthly income, which is not meagre. The Tribunal has rightly awarded a reasonable compensation and therefore, there is no need to interfere with the said finding of the Tribunal. Thus, the award given by the Tribunal is to be confirmed and the appeal is to be dismissed.

6. I have heard the learned counsel for the appellants as well as the third respondent and perused the entire materials on record.

7. From the materials available on record, it is seen that the appellants have contended that deceased was doing contract work in the name and style of Kemoplast and was earning a sum of Rs.16,666/- per month at the time of accident. In the absence of material evidence, the Tribunal fixed a sum of Rs.1,250/- as monthly income, which is meager. The deceased was

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aged 43 years at the time of accident. Considering the age and avocation of the deceased, it would be appropriate to fix a sum of Rs.2,500/- towards monthly income of the deceased. In the considered view of this Court, since the deceased was a married man and the dependents are claimants 1 to 4, 1/4th will have to be deducted towards the personal expenses of the deceased. Accordingly, the loss of dependency is modified from Rs.1,54,000/- to Rs.3,37,500/- as detailed below:

2,500 x 12 x 15 = Rs.4,50,000/- (-) 1/4 = Rs.3,37,500/-

8. In addition to the pecuniary loss sustained by the appellants, the Tribunal has granted the compensation of Rs.2,000/- to the appellants/claimants towards funeral expenses, Rs.5,000/- towards loss of consortium and Rs.2,500/- towards loss of estate. However, the compensation awarded by the Tribunal towards funeral expenses, loss of consortium and loss of estate is low in the considered view of this Court. Hence this Court is inclined to enhance a sum of Rs.3,000/- towards funeral expenses, Rs.10,000/- towards loss of consortium and Rs.3,000/- towards

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loss of estate. This apart, the Tribunal has failed to award any amount towards love and affection to the claimants 2 to 4. In the considered view of this Court, it would be appropriate to award Rs.30,000/- towards love and affection to the claimants 2 to 4.

9. For the forgoing reasons, the compensation awarded by the Tribunal under the impugned award is modified as follows:

Heads	***Amount awarded by the Tribunal (Rs.)***	***Award Amount by this Court (Rs.)***
Loss of dependency	1,54,000/- (Monthly Income Rs.1250-450 (800 x 12 x 15 = Rs.1,44,000/-) plus Loss of Expectation of Life-Rs.10,000/-	3,37,500/- (Rs.2,500/- x 12x 15 (-) 1/4 deduction)
Loss of consortium	5,000/-	10,000/-
Loss of love and affection	Nil	30,000/-
Loss of estate	2,500/-	3,000/-
Funeral Expenses	2,000/-	3,000/-
Total	**1,63,500/-**	**3,83,500/-**

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Accordingly, the appellants/claimants are entitled to a compensation of Rs.3,83,500/- (Rupees three lakhs eighty three thousand and five hundred only) with interest at the rate of 9% per annum from the date of claim petition till the date of filing of this appeal and thereafter, at 7.5% from the date of numbering the appeal and out of the entire award amount, the claimants shall receive a sum of Rs.95,875/- each.

10. In the result,

(i) This appeal is allowed and the compensation awarded by the Tribunal is enhanced from 1,63,500/- to Rs.3,83,500/- with interest at the rate of 9% per annum from the date of claim petition till the date of filing of this appeal and thereafter, 7.5% p.a. from the date of numbering the appeal. No costs.

(ii) The third Respondent Insurance Company is directed to deposit the modified award amount i.e, **Rs.3,83,500/-** along with interest at the rate of 7.5% per annum, after deducting the amount already deposited, if

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any, to the credit of MCOP.No.171 of 2001 within a period of six weeks from the date of receipt of a copy of this Judgment.

(iii) On such deposit being made, the Tribunal is directed to transfer the respective shares of award amount as per the ratio apportioned by this Court to the bank accounts of the Appellants 1 to 4 along with accrued interest through RTGS within a period of two weeks thereafter.

15.06.2023

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

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To

1.The Motor Accidents Claims Tribunal/
Additional District and Sessions Judge and
the Special Court for Essential Commodities Cases, Coimbatore.

2.The Section Officer
V.R.Section, High Court of Madras.

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A.A.NAKKIRAN, J.

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