



WEB COPY



C.M.A.No.1954 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1954 of 2019

1.Selvarani

2.Sathishkumar

3.Mohanraj

... Appellants/Petitioners

Vs.

1.S.S.Rajesh

2.The New India Insurance Company Limited

Divisional Office

Yercaud Main Road,

Five Roads

Salem-4

3. R.Poongodi

4.Royal Sundaram Alliance Insurance Company Ltd.

Sankari Branch,

Sankari Town,

Sankari Taluk,

Salem District.

... Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the award and decree of the I Additional District Judge's Court (Motor Accident Claims Tribunal) at Salem dated 10.09.2013 in M.C.O.P.No.1769 of 2007, in so far as against the disallowed portion of the claim, by enhancing the compensation payable to the appellants.



C.M.A.No.1954 of 2019

WEB COPY

For Appellants : Ms.Ranjani
for M/s.Thanga Vadhana Balakrishnan
For Respondents : Notice not ready [R1] [R3] & [R4]
Mr.Chandran for [R2]

JUDGEMENT

Aggrieved by the compensation awarded by the I Additional District Judge's Court (Motor Accident Claims Tribunal), Salem made in M.C.O.P.No.1769 of 2007 dated 10.09.2013, the claimants are before this Court.

2. Brief facts which are necessary for disposal of this appeal are as follows:-

(i) The appellants are the wife & sons of deceased Elangovan. On 09.06.2007, when the deceased was driving a lorry bearing registration No.K.A. 01-AB-9799 owned by the 3rd respondent, insured with the 4th respondent, from Gentoor of Karnataka State so as to unload the iron ore material at Mangalore Harbour, the bus bearing registration No.KA-20-D-2727 owned by the 1st respondent, insured with the 3rd respondent which was driven



C.M.A.No.1954 of 2019

in a rash and negligent manner, dashed against the lorry of the deceased as a result of which, the deceased Elangovan sustained grievous injuries and died on the spot. Aggrieved by the loss incurred in view of the said accident, the appellants have filed a claim petition in M.C.O.P.No.1769 of 2017 claiming compensation amount of Rs.12,00,000/-.

4. Before the Tribunal, the first petitioner Selvarani, who is the wife of the deceased, examined herself as P.W.1 and examined the eyewitnesses namely Prakash and Jayakumar as P.W.2 & P.W.3 and marked the documents viz., Ex.P.1 to Ex.P.11. One Sivalingam examined as R.W.1 on the side of the respondents and Ex.R1 to Ex.R4 were marked. The Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.5,13,056/-. Challenging the same, the claimants are before this Court.

5. The learned counsel appearing for the appellants submitted that the Tribunal had accepted that the accident was caused purely due to the negligence on the part of the lorry driver and accordingly, awarded the compensation amount which is on the lower side and the same requires to be



C.M.A.No.1954 of 2019

reconsidered. Further, the Tribunal has not added future prospects as per the decision rendered by the Hon'ble Supreme Court in the case of ***National Insurance Company Limited Vs. Pranay sethi and others reported in 2017 (16) Supreme Court Cases 680.***, which also requires to be reconsidered by this Court. Accordingly, he prays for appropriate enhancement in favour of the appellants.

6. Per contra, the learned counsel appearing for the third respondent/Insurance Company submitted that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

7. Heard the learned counsel for the appellants and the learned counsel appearing on behalf of the 3rd respondent and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties.



C.M.A.No.1954 of 2019

Therefore, this Court is not entering into the said aspect. The only grievance of the appellants/claimants is with regard to the quantum of compensation awarded. It is claimed by the appellants that the compensation awarded by the Tribunal under various heads is grossly inadequate which requires enhancement. It has been the view of the courts that even a housewife is entitled to monthly income to be fixed for the purpose of qualifying their work for the purpose of quantifying the amount receivable by them. Applying the ratio laid down by the Hon'ble Supreme Court in the case of ***Syed Sadiq Vs. United India Insurance Company*** reported in **2014 (1) TANMAC 459**, fixing a notional income of Rs.6,000/- and adding future prospects at 25%, as has been held by the Constitution Bench in the case of ***National Insurance Company Limited Vs. Pranay sethi and others*** reported in **2017 (16) Supreme Court Cases 680**, the total income per month is quantified at Rs.7,500/-. Deducting 1/3rd towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.5,000/- per month and the deceased being aged about 45 years, as evidenced from the records, adopting the multiplier of 14 as fixed by the Apex Court in the case of ***Sarla Verma and***



C.M.A.No.1954 of 2019

Ors. v. DTC & Ors. reported in (2009) 6 SCC 121, the loss of income to the family is arrived at Rs.5,000 x 12 x 14 = Rs.8,40,000/- which is worked out as follows :-

Loss of Income	Amount (in Rs.)
Notional income (Per month)	6,000
Add: Future Prospects (Rs.6,000 x 25%) (Per month)	+ 1,500
	7,500
Less: Personal expenses (1/3 rd) (Rs.7,500/- x 1/3) (Per month)	- 2500
	5,000
Notional income (per annum) (Rs.5,000 x 12)	60,000
Multiplier	x14
Total	8,40,000

9. A sum of Rs.10,000/- has been awarded to the appellants 2 and 3 under the head of "loss of love and affection", which is meagre and the same is enhanced to a sum of Rs.40,000/- each ; Rs.10,000 granted to the first appellant under the head of "loss of consortium" is meagre and the same is enhanced to a sum of Rs.40,000/-; Rs.5,000/- under the head of "funeral expenses", is also meagre and the same is also enhanced to a sum of Rs.15,000/-. Rs.5,000/- has been awarded under the head of “Transporation”



C.M.A.No.1954 of 2019

is just and reasonable and the same is confirmed. Further, a sum of Rs.25,000/- awarded under the head of "loss of estate" is excessive and the same is reduced to a sum of Rs.15,000/-.

10. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Loss of Income	Rs.4,48,056/-	Rs.8,40,000/- (enhanced)
Loss of love and affection (40,000 x 2)	Rs.20,000/-	Rs.80,000/- (enhanced)
Transporation	Rs.5,000/-	Rs.5,000/-
Loss of Consortium	Rs.10,000/-	Rs.40,000/- (enhanced)
Funeral expenses	Rs.5,000/-	Rs.15,000/- (enhanced)
Loss of estate	Rs.25,000/-	Rs.15,000/- (reduced)
Total	5,13,056/-	Rs.9,95,000/-

11. The appeal is allowed and the impugned Award of the Tribunal is



C.M.A.No.1954 of 2019

modified by enhancing the compensation amount from **Rs.5,13,056/-** to **Rs.9,95,000/-**. The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.1769 of 2007 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. The said award amount shall be apportioned amongst the appellants/claimants as per the Award of the Tribunal. On such deposit being made, the appellants/claimants are permitted to withdraw the award amount falling to their share, along with proportionate accrued interest and costs as awarded by the Tribunal, less, the amount, if any already withdrawn, by filing necessary application before the Tribunal. The appellants/claimants are directed to pay the necessary Court fee for the enhanced compensation amount, if any, required. The Tribunal below shall disburse the enhanced amount upon proof of payment of Court fee is produced by the appellants/claimants. There shall be no order as to costs in the present appeal.

10.11.2023

Index : Yes / No

Page No.8 of 10



C.M.A.No.1954 of 2019

Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No

NHS

To

1. I Additional District Judge's Court
(Motor Accident Claims Tribunal),
Salem
- 2.The Section Officer,
V.R. Section,
High Court, Madras.



WEB COPY



C.M.A.No.1954 of 2019

M.DHANDAPANI, J.

NHS

C.M.A.No.1954 of 2019

10.11.2023