



C.M.A.No.3699 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.3699 of 2019

1.A.Muthukani
2.Kanagavalli
3.Rajalingam
4.Ravikumar
5.Sumathi
6.Baskar

.. Appellants

Vs.

1. G.K.Balan
2.United India Insurance Co., Ltd.,
No.134, Silingi Building, Greams Road,
Chennai – 600 006.
3.V.Selvi

..Respondents

Prayer: The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 06.12.2017 made in MCOP.No.2230 of 2015 on the file of the Motor Accident Claims Tribunal (Chief Small Causes Court) Chennai.

For Appellants	: Mr.K.Varadha Kamaraj
For Respondents	: Mr.D.Bhaskaran for R2
	No appearance for R1



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J U D G M E N T

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The Judgment and Decree dated 06.12.2017 passed in MCOP.No.2230 of 2015 on the file of the Motor Accident Claims Tribunal (Chief Small Causes Court) Chennai, is under challenge in the present Civil Miscellaneous Appeal.

2. The Appellants/claimants unsatisfied with the quantum of compensation awarded by the Tribunal under the impugned award, has preferred this appeal seeking for enhancement.

3. The Motor Accidents Claim Tribunal, under the impugned award, has awarded a compensation of Rs.13,89,510/- together with interest and costs to the Appellants/claimants which is detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Loss of pecuniary benefits (Rs.3000-600 x 12 x5)	1,44,000/-
Consortium	40,000/-



<i>Heads</i>	<i>Award Amount (Rs.)</i>
Medical Expenses	7,79,510/-
Loss of Estate	15,000/-
Funeral Expenses	15,000/-
Total	9,93,510/-

4. Before the Tribunal, the Appellants/claimants has examined two witnesses and filed 30 documents which were marked as Ex.P1 to Ex.P30. On the side of the respondents, neither any witness was examined before the Tribunal nor any document was filed.

5. The learned counsel appearing on behalf of the appellants mainly contended that the compensation awarded by the Motor Accident Claims Tribunal is very meagre. The deceased was running a shop and was earning about Rs.5,00,000/- per annum and there is a loss of earning power. All these aspects have not been considered by the Tribunal. In contrary, the Tribunal has fixed the loss of income at Rs.1,44,000/-, which is improper and inadequate and arrived at a total compensation of Rs.9,93,510/-. He



further submitted that the Tribunal has erred in fixing the income of the deceased at Rs.3000/- per month as against the monthly income of the deceased at Rs.20,000/- per month. It ought to have fixed the income of the deceased at Rs.2,76,100/- per annum as per oral evidence of PW1 and as per Ex.P12 to Ex.P14. It erred in not awarding any amount towards love and affection to the appellants 2 to 6 who lost their father and pain and sufferings. It has also erred in awarding Rs.40,000/- towards loss of consortium to the 1st appellant which is on lower side. The amount granted under other heads are also on lower side. Hence, he prays for enhancement of the appeal.

6. The learned counsel appearing on behalf of the second respondent/Insurance Company disputed the contentions by stating that the Tribunal has assessed the compensation with reference to the documents produced by the claimants. There is no proof to establish the monthly income of the deceased. Thus, in the absence of any document to establish the monthly income, the Tribunal has arrived at the conclusion and fixed the



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monthly income of the deceased rightly at Rs.3,000/- and awarded a reasonable compensation of Rs.9,93,510/-. Thus, the appeal is devoid of merits and is to be dismissed.

7. On perusal of records, it is seen that the accident occurred on 20.11.2014 at about 7.30 p.m., when the deceased was travelling as a pillion rider on the two wheeler bearing Regn.No.TN-10-U-4206 on GST road proceeding from Meenambakkam bridge towards Guindy, a car bearing Regn.No.TN-10-Q-8584, driven by its driver, in a rash and negligent manner, on the same direction, suddenly turned left side and dashed against the right side of the two wheeler, due to which, the deceased was thrown away with fatal injuries and died on 15.01.2015 in the Hospital.

8. The Tribunal adjudicated the issues with reference to the documents and evidences produced by the respective parties. The negligence was attributed against the driver of the car, who is the 1st respondent herein. The findings of the Tribunal is that the car driver had driven the vehicle in a

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rash and negligent manner which resulted in an accident. As far as the quantum of compensation is concerned, the Tribunal has fixed Rs.3,000/- as monthly income of the deceased. Therefore, this Court is of the considered opinion that the accident occurred in the year 2014 and fixing a sum of Rs.3,000/- is on the lesser side. Thus, considering the year of the accident and the prevailing economic situation, this court fix a sum of Rs.7,500/- p.m., as the income of the deceased. The two daughters of the deceased are married and having three major sons. Hence one-third of his income would be deducted towards personal expenses. However, the multiplier adopted by the Tribunal at 5 is a correct assessment. Accordingly, this court is inclined to grant a sum of Rs.3,00,000/- ($7500 \times \frac{1}{3} = 2500$, $7500 - 2500 = 5000 \times 12 \times 5 = 3,00,000/-$) towards loss of income. Further, the compensation awarded by the Tribunal under the other heads namely loss of love and affection to the appellants are also inadequate and the same has to be enhanced. Accordingly, it is just and reasonable to enhance the compensation at Rs.40,000/- each towards Love and Affection to the appellants 2 to 6.



9. Insofar as the other heads of the compensation are concerned, the assessment of the compensation under the said heads by the Tribunal is a just compensation and it does not call for any interference by this Court.

10. For the foregoing reasons, the award passed by the Tribunal is modified as follows:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Award Amount by this Court (Rs.)</i>
Loss of Income	1,44,000/- (3000-600 x 12x5)	3,00,000/- (7500-2500 x12 x5)
Loss of Consortium to 1 st appellant	40,000/-	40,000/-
Loss of love and affection to the appellants 2 to 6	-----	2,00,000/- (40000 x 5)
Medical Expenses	7,79,510/-	7,79,510/-
Loss of Estate	15,000/-	15,000/-
Funeral Expenses	15,000/-	15,000/-
Total	9,93,510/-	13,49,510/-



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11. In the result,

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(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) Thus, the appellants / claimants are entitled to the enhanced compensation of Rs.13,49,510/-. It is made clear that for the enhanced amount of Rs.13,49,510/-, the interest rate of 7.5% shall be calculated from the date of filing of this appeal.

(iii) The second respondent/Insurance Company is directed to deposit the enhanced compensation as ordered above, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest to the bank account of the appellants/claimants through RTGS within a period of two weeks thereafter. No costs.

12. Since the compensation amount now awarded is Rs.13,49,510/-, it



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is made clear that the claimants have to pay the appropriate Court fee in order to receive the enhanced amount.

03.04.2023

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

To

1.The Motor Accident Claims Tribunal,
(Chief Small Causes Court) Chennai.

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

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A.A.NAKKIRAN, J.

gv

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