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CMA.No.2480 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM: JUSTICE N.SESHASAYEE

CMA.No.2480 of 2023

1.Minor E.Jeevithan
(represented by his guardian
& Grandmother Anthoniyammal)

2.A.Anthoniyammal

... Appellants

-Vs-

1.M.Suhashini
2.The Branch Manager,
Sri Ram General Insurance Company Ltd.,
No.4, Lady Desika Road,
Mookambika Complex, 2nd Floor,
Mylapore,
Chennai City Civil Court Jurisdiction,
Chennai – 4.

...Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the M.V.Act, 1988, against the Judgment and Decree dated 29.06.2017 passed in MCOP.No.6 of 2015 on the file of Motor Accident Claims Tribunal, (Chief Judicial Magistrate), Thiruvarur.

For Appellants	: M/s.M.Prabahavathi for M/s.M.Thamizhavel
For R1	: notice D/w Vide order dt.16.10.2023
For R2	: Mr.N.Somasundar



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JUDGMENT

The first appellant herein was barely three years old when he lost his father Edison in a road accident. The accident had taken place on 10.05.2014 when a lorry belonging to the first respondent and insured with the second respondent dashed against a stationary motorcycle which the victim was riding at the relevant time. The victim was barely 25 years old at the relevant time and was stated to be a mason. He had lost his wife, the mother of the first claimant even earlier. Besides the first claimant, he had left his mother/second claimant, under whose care the minor is now. The Tribunal had notionally reckoned the daily wages of the victim at Rs.300/-, in other words, at Rs.9,000/- per month, applied 18 as the multiplier and deducted 1/3rd towards the personal expenditure of the victim and awarded Rs.12,96,000/- towards loss of dependency for both the claimants. Further, the Tribunal had directed the insurance company to pay and recover the compensation amount from the owner of the vehicle as it has noted certain policy violation. The details of the award are as below;



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Sl. No	Description	Amount awarded by Tribunal (Rs)
1.	Loss of Dependency	12,96,000/-
2.	Funeral expenses	25,000/-
3.	Loss of love and Affection to the first claimant	1,00,000/-
4.	Loss of estate	10,000/-
	Grand Total	14,31,000/-

Dissatisfied with the quantum of award, the claimants are now before this Court.

2.The learned counsel for the appellants submitted that the Tribunal had reckoned the monthly income of the victim at a mere Rs.9,000/- a month and this is unrealistic. This apart, the Tribunal had not included the future prospects to which the victim is entitled to.

3.Heard the learned counsel for the second respondent and perused the award.



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4. This Court considers that Rs.10,000/- a month would be fair and reasonable for a mason for the standard of living as it was in 2014, to which another 40% is added and 18 is applied as the multiplier and 1/3rd is deducted towards the personal expenditure of the victim and the total compensation payable under the head of loss of dependency is arrived at Rs.20,16,000/-. This Court also finds that the second respondent, the mother of the victim was not granted any compensation towards love and affection. To this, this Court adds another Rs.40,000/- towards loss of love and affection for the second claimant. The final award would be as below;

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	12,96,000/-	20,16,000/-	Enhanced
2.	Funeral expenses	25,000/-	25,000/-	Confirmed
3.	Loss of love and affection to the first claimant	1,00,000/-	1,00,000/-	Confirmed
4.	Loss of love and affection to the second claimant	-	40,000/-	-



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5.	Loss of estate	10,000/-	10,000/-	Confirmed
	Grand Total	14,31,000	21,91,000/- -	Enhanced by 7,60,000/-

5.In conclusion, this Civil Miscellaneous Appeal is allowed in the above terms. This Court is informed that the insurance company, the second respondent has deposited the entire compensation amount as awarded by the Tribunal. The insurance company is now required to deposit the balance amount of Rs.7,60,000/- with interest at 7.5 % less the interest payable for 1878 days, within a period of six (6) weeks from the date of receipt of a copy of this order. The enhanced portion of the compensation is directed to be apportioned in the same ratio in which the Tribunal has apportioned it between the claimants. On such deposit the first appellant is permitted to withdraw the award amount along with proportionate interest and costs, as per the ratio of apportionment fixed by the Tribunal, less the amount if any, already withdrawn and the compensation amount pertaining to the first appellant viz., Minor E.Jeevithan is directed to be deposited in a nationalised Bank in the interest bearing Fixed Deposit till the minor attains the age of majority and the grandmother of the minor viz., A.Anthoniyammal is permitted to withdraw the accrued interest on



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the deposit of the minor once in six months. The second respondent is entitled to pay and recover the amount now directed to be deposited from the owner of the vehicle. The claimants are also directed to pay additional Court fee on the enhanced portion of the compensation. No costs.

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To

- 1.The Motor Accident Claims Tribunal,
(Chief Judicial Magistrate), Thiruvarur.
- 2.The Section Officer,
V.R.Section, High Court, Madras.



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N.SESHASAYEE, J.,

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