



C.M.A.No.2498 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Civil Miscellaneous Appeal No.2498 of 2018

1. Ramaiah

2. Maheswari

... Appellants/Petitioners

Vs.

1. B.Venkatasamy

[No relief sought against the 1st respondent.

Hence, notice may be dispensed with]

2. IFFCO TOKIO General Insurance Company Ltd.,

Office situates at KSCMF Building,

III Floor, III Block, No.8,

Cunningham Road,

Bangalore.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 07.04.2017 made in M.C.O.P.No.1044 of 2015 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Krishnagiri.

For Appellants	:	Mr. C. Prabakaran
For R1	:	Ex-parte
For R2	:	Mr. M. B. Gopalan Associates



C.M.A.No.2498 of 2018

JUDGMENT

The Civil Miscellaneous Appeal has been filed by the claimants in M.C.O.P.No.1044 of 2015, aggrieved over the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Additional District Judge, Krishnagiri, wherein, the Motor Accidents Claims Tribunal has awarded a sum of Rs.5,30,000/- as compensation to the claimants for the death of Sindhu, in the accident taken place on 25.06.2015.

2. The parties are referred to hereunder according to status and ranking before the Tribunal.

3. The claimants are the parents of the deceased Sindhu. The case of the claimants are that the deceased Sindhu was studying IV Standard in the Panchayat Union Primary School at Thali and that on 25.06.2015, while she went to School by walk in the left side of the mud portion of the road, nearing in front of one Kaliappan's House, at that time a Bolero Car bearing Registration No.KA 53 M 7812 came from the opposite direction belongs to the first respondent and its owner-cum-driver driven the car in a rash and negligent manner, dashed against the deceased, due to which, the



C.M.A.No.2498 of 2018

deceased caused fatal injuries. A case was registered by the Thali Police against the driver of the Bolero Car in Crime No.301 of 2015 under Sections 279 and 304-A IPC. Hence, the petitioners filed Claim Petition claiming compensation for a sum of Rs.20,00,000/- for the death of the deceased Sindhu.

4. The first respondent – owner-cum-driver has not contested the claim and remained ex-parte.

5. The second respondent – insurer of the Bolero car contested the case and filed counter and contended that the accident was occurred only due to rash and negligent driving of the driver of the first respondent car and the driver of the car was not having valid driving license at the time of accident and also the second respondent is not liable to indemnify the first respondent. The deceased was a minor and suddenly crossed the road without noticing the first respondent vehicle was coming and invited the accident and in that, there was no negligence on the part of the driver of the first respondent vehicle. The claimants have to prove the age of the deceased hence prays to dismiss the Claim Petition.



C.M.A.No.2498 of 2018

6. Before the Tribunal, on the side of the claimants P.W.1 was examined and Exs.P1 to P11 were marked. On the side of the second respondent-Insurance Company no witness was examined and no documents marked.

7. Based on the evidence adduced, the Tribunal in Point No.1 has held that the accident occurred only due to the rash and negligent driving of the driver of the Bolero Car-the first respondent. In Point No.2, the Tribunal has awarded a sum of Rs.5,30,000/- as compensation to the claimants for the death of the deceased Sindhu.

8. The claimants have filed this appeal on the grievance that the compensation awarded for the death of their deceased daughter is on the lower side and prays to increase the compensation.

9. The learned counsel for the appellants submitted that the Tribunal has awarded a lump sum amount of Rs.4,00,000/- for pecuniary damages and future prospects of the deceased and recently, this Court has awarded Rs.45,000/- per year as notional income of the deceased by



C.M.A.No.2498 of 2018

adopting multiplier method, loss of income has been assessed and similarly in other heads also the Tribunal has not granted compensation such as, loss of estate has not been awarded and hence prays to revise the quantum of compensation awarded by the Tribunal.

10. Per Contra, the learned counsel for the Insurance Company has submitted that the Tribunal has awarded compensation under four heads in which, some heads have been given more than the prescribed amount and hence oppose to revise the quantum of compensation fixed by the Tribunal and prays to dismiss the award.

11. I have heard the submissions on both sides and also perused the materials placed on record.

12. In this case, the deceased is 8 years old girl studying IV Standard and the petitioners are her parents and the deceased was died on 25.06.2015 in the road accident taken place in front of one Kalliappan's House which was Mahindra Bolero Car bearing Registration No.KA 53 M 7812 belongs to the first respondent, hit on her, caused death on the spot.



C.M.A.No.2498 of 2018

The Tribunal after considering the evidence placed on record arriving its conclusion that the first respondent driver is the tortfeasor and that the first respondent is liable to pay the compensation to the death of the deceased in this case. Accordingly, the Tribunal awarded compensation under four heads is as follows:

For Pecuniary damages and Future Prospectus a sum of Rs.4,00,000/-; for Loss of Love and Affection a sum of Rs.1,00,000/-; for Funeral Expenses a sum of Rs.25,000/- and for Transportation a sum of Rs.5,000/-. Totally a sum of Rs.5,30,000/- as compensation was awarded to the claimants.

13. Recently, this Court while considering the quantum of compensation to be awarded for the death of a 12 years old girl in ***Jayappa and Another vs. Ghose Baig and Another*** in ***C.M.A.No.610 of 2021, dated 18.03.2021*** has considered the Judgment of the Hon'ble Apex Court in ***Kishan Gopal and Another vs Lala and Others*** reported in ***2014 1 SCC 244***; ***Rajendra Singh and Others vs. National Insurance Company Limited and Others*** reported in ***2020 7 SCC 256*** and fixed notional income



C.M.A.No.2498 of 2018

WEB COPY

as Rs.45,000/- per annum by adopting multiplier '15' and awarded a sum of Rs.6,75,000/- as a pecuniary loss for the death of the deceased. In this case, the deceased is 8 years old girl and by following the above Judgments, I am inclined to fix the notional income of the deceased herein is at Rs.45,000/- per annum and by adopting multiplier '15', the total amount arrived at Rs.6,75,000/- [45000 x 15] as compensation under the head Pecuniary loss. With regard to loss of love and affection, the Tribunal has awarded a lump sum of Rs.1,00,000/- and it has been modified to Rs.40,000/- each to the parents of the deceased and accordingly, Rs.80,000/- [40000 x 2] is awarded under the head loss of love and affection. The Tribunal has not granted compensation under the head loss of estate and hence this Court is inclined to grant a sum of Rs.15,000/- under the head Loss of Estate. In other heads the Tribunal awarded amount is just fair and reasonable and hence no warrants is interfered with the other heads.

14. Thus, the compensation awarded by the Tribunal is modified as follows:



C.M.A.No.2498 of 2018

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pecuniary damages and Future Prospects	Rs.4,00,000/-	Rs.6,75,000/-	Enhanced
2.	Loss of Love and Affection	Rs.1,00,000/-	Rs.80,000/-	Reduced
3.	Funeral Expenses	Rs.25,000/-	Rs.15,000/-	Enhanced
4.	Loss of Estate		Rs.15,000/-	Granted
5.	Transportation	Rs.5,000/-	Rs.5,000/-	Confirmed
	Total	Rs.5,30,000/-	Rs.7,90,000/-	Enhanced by Rs.2,60,000/-

15. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal is at Rs.5,30,000/- is hereby enhanced to Rs.7,90,000/- [Rupees Seven Lakhs and Ninety Thousand only] together with interest at the rate of 7.5% per annum from the date of Claim Petition till the date of deposit. The second respondent/Insurance Company is directed to deposit the award amount, now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.1044 of 2015,



C.M.A.No.2498 of 2018

WEB COPY

on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Krishnagiri. On such deposit, the appellants/claimants are entitled to withdraw the amount now awarded by this Court along with interest and costs, as per the apportionment fixed by the Tribunal, less the amount, if any already withdrawn, without making any formal application. Since this Court has enhanced the compensation, the appellants/claimants are directed to pay necessary Court fee, if any, on the enhanced compensation. It is made clear that the appellants/claimants are not entitled to any interest for the delay period as per the order of this Court dated 24.10.2018 made in C.M.P.No.16680 of 2018 in C.M.A.SR.No.65658 of 2018. In other aspects, the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal. Consequently, the connected miscellaneous petition stands closed, if any.

17.07.2023

ssi

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No



C.M.A.No.2498 of 2018

WEB COPY

To:

1. The Additional District Judge,
Motor Accidents Claims Tribunal,
Krishnagiri.
2. The Section Officer,
V.R.Section,
High Court,
Chennai.



WEB COPY



C.M.A.No.2498 of 2018

K.RAJASEKAR,J.

ssi

C.M.A.No.2498 of 2018

17.07.2023