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C.M.A.No.2815 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2023

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

C.M.A.No.2815 of 2014

1. Minor Rnjani @ Ranjitham (*Deceased*)
2. R.Patchaiyannan
3. Tamilselvi ...Appellants

(2nd and 3rd Appellants brought on record as LR's of the deceased sole appellant, vide order of this Court dated 30.06.2015 in MP.No.1 of 2015 in CMA.No.2815 of 2014).

Vs.

1. P.Ponnamalai
2. T.Murugan
3. M/s. National Insurance Co. Ltd.,
No.82-T, Chetty Street,
Toruchengode Post. ...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the Decree and Judgment dated 09.08.2005 made in M.C.O.P.No.1405 of 2002 on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate Court) Namakkal, (transferred from Sankagiri Sub Court in MCOP.No.413 of 1995).



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For Appellant : Mr.V.Kumaravelan

For Respondents : Mr.J.Chandran, for R3

JUDGEMENT

Challenging the Decree and Judgment dated 09.08.2005 made in M.C.O.P.No.1405 of 2002 on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate Court) Namakkal, (transferred from Sankagiri Sub Court in MCOP.No.413 of 1995), the claimants have come up with this appeal.

2. It is the case of the appellants that, on 20.10.1994 at about 04.30 pm., when the deceased/claimant was returning home from school in the main road from Trichengode to Salem in Suryagoundampalayam, a tempo van bearing Regn.No.TN-28-Y-7556, owned by the 2nd respondent, insured with the 3rd respondent, driven by the 1st respondent driver in a rash and negligent manner, hit behind the deceased, due to which, she sustained fatal injuries all over her body and she attained vegetative state. Thereby, she filed a claim petition claiming a compensation of Rs.10,00,000/-. After contest, the tribunal, vide impugned judgment awarded a compensation of Rs.2,20,000/-, payable by the



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respondents herein. Aggrieved by the said order, the claimant is before this Court seeking enhancement of the compensation fixed by the tribunal.

3. Learned counsel for the appellants submitted that, during the pendency of this appeal, deceased/claimant passed away and thereby the 2nd & 3rd appellants, father and mother of the deceased were impleaded as the Legal representatives. Admittedly, the above said accident occurred solely due to the rash and negligent driving of the driver of the said tempo and at the time of accident, the deceased/claimant was only aged about 4 years and due to the injuries sustained by her, she went to vegetative state and unable to lead her life in a normal manner and the PW2, Doctor, who treated the deceased, issued a Disability certificate, marked as Ex.P2, holding that the deceased sustained 100% permanent disability. However, without considering any of the above said facts, the tribunal had mechanically awarded a meagre compensation of Rs.2,20,000/- without adopting the multiplier method, which cannot be acceded to. Accordingly, he prayed for necessary orders of this Court, enhancing the compensation fixed by the tribunal.



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4. Per contra, the learned counsel appearing for the 3rd respondent/ Insurance Company submitted that, by considering all the relevant documents placed before it, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

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

6. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellants is with regard to the quantum of compensation awarded. It is claimed by the 2nd and 3rd appellants that, though the deceased was only aged about 4 years and was not contributing to the income of the family, however, if the deceased had not met with the above said accident, she would have completed her studies and would have contributed to the family. Whiles, without considering the same, the Tribunal has awarded a meagre compensation of Rs.2,20,000/- alone. It has been the view of the courts that even a housewife



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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 catena of decisions, this Court is of the considered view that a sum of Rs.2000/- can be fixed as the notional income. However, considering the age of the child, being 4 years at the time of the accident and the deceased was in a vegetative state from the date of the accident in the year 1994 and the deceased having passed away during the pendency of the present appeal, i.e., after 2014, this Court is of the considered view that it would be neither in the interest of justice to deduct any amount towards personal expenses and at the same time, it would also not be right in adding any future prospects. Only in that backdrop, this Court has fixed the notional income at Rs.2,000/-, notwithstanding the fact that the accident had happened in the year 1994. Accordingly, applying the ratio laid down in **Rajinder Singh case**, this Court adopts a multiplier of 15. Therefore, the loss of income to the family is arrived at $\text{Rs.2000/-} * 12 * 15 = \text{Rs.3,60,000/-}$.

7. A sum of Rs.20,000/- has been granted under the head of "pain and suffering", which is very less and the same is enhanced to a sum of Rs.50,000/-.



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Further, as the claimant passed away only subsequent to the filing of this appeal due to the injuries sustained by her at the time of the above said accident, no compensation has been awarded under the heads “attender charges”, “love and affection”, “transportation charges”, “funeral expenses”, and “loss of estate”. Hence, this Court is inclined to award a sum of Rs.20,000/-, Rs.80,000/-, Rs.20,000/-, Rs.15,000/- and Rs.15,000/- respectively under the above said heads. Further, as the accident had happened in the year 1994 and the deceased was in a vegetative state till her death, this Court is not inclined to interfere with the award of of Rs.20,000/- under the head “future medical expenses”.

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

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of income	-	3,60,000/-
Loss of love and affection (Rs.40,000/- x 2)	-	80,000/-
Pain and suffering	20,000/-	50,000/-
Transportation expenses	-	20,000/-



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<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Funeral Expenses	-	15,000/-
Loss of estate	-	15,000/-
Medical expenses	1,80,000/-	1,80,000/-
Future medical expenses	20,000/-	20,000/-
Attender charges	-	20,000/-
Total	2,20,000/-	7,60,000/-

9. The appeal is allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.2,20,000/-** to **Rs7,60,000/-**. The 3rd respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.1405 of 2002 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. Further, the appellants are not entitled for the interest for the default period, that is, from the date of award by the tribunal i.e.,09.08.2005 till the date of filing of the Appeal i.e.,17.07.2009. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of



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the 2nd and 3rd appellants through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellants. There shall be no order as to costs in the present appeal.

19.10.2023

skt

Index : Yes / No
Speaking Order : Yes / No
NCC : Yes / No

To

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



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M.DHANDAPANI, J.

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