



C.M.A.(MD).No.20 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD).No.20 of 2021

1.Rajalakshmi

2.Annathurai

3.Minor A.Logesh

... Appellants

Vs.

1.L.Dharmalingam

2.The Divisional Manager,
New India Assurance Company Limited,
Pour Divisional Office,
No.80, Arrest Road,
Porur,
Chennai 600 116.

... Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award passed by the Motor Accident Claims Tribunal, Sub Court, Kuzhithalai in M.C.O.P.No.377 of 2016, dated 08.11.2019.

For Appellants : No appearance

For R2 : Mr.M.S.Suresh Kumar



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J U D G M E N T

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Challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Sub Court, Kuzhithalai in M.C.O.P.No.377 of 2016, dated 08.11.2019, the Civil Miscellaneous Appeal has been filed by the claimants.

2. At the time of accident, the deceased was aged about 21 years and he was working in D.S.Agarpathi Manufacturing Company, Chennai and earning a sum of Rs.15,000/-. On 18.10.2015, at about 1.30 p.m., while he was travelling as a pillion rider in the first respondent's two wheeler bearing Registration No.TN 06 P 5802, he met with an accident and succumbed to injuries. The legal heirs of the deceased filed the claim petition seeking compensation.

3. The only contention raised is that the Tribunal has fixed only a sum of Rs.9,000/- as notional income of the deceased, despite the fact that P.W.2 has spoken about the income of the deceased and even otherwise, at the time of accident, in the year 2015, notional income would be more than Rs.13,000/- because the inflation cost index at the relevant point of time is more than Rs. 12,000/-. Therefore, it is the contention of the appellants that the Tribunal has not considered this aspect. Besides that, the Tribunal has fixed only a lesser



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amount towards loss of love and affection and funeral expenses.

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4. The learned counsel appearing for the second respondent would submit that there is no evidence to show that the deceased was earning more than Rs.15,000/- per month.

5. In the light of the above submission, now the point for consideration in this appeal is whether the Tribunal is right in fixing the notional income of the deceased as Rs.9,000/-?

6. On a perusal of the evidence, particularly the evidence of P.W.2 who has spoken that the deceased was working in Agarthi Company and drawing a sum of Rs.15,000/- per month. The Tribunal did not believe the same, since the salary register and other connected documents have not been filed. It is relevant to note that when the person residing in the city and working in the company, who was aged about 21 years, even apply minimum wages, it will be more than Rs.12,000/- per month. Considering the cost index rate formula at the relevant point of time, the Tribunal ought to have awarded a sum of Rs. 12,790/-.



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Accordingly, this Court is of the view that the same is fixed as notional income and that will meet the ends of justice and added 40% towards future prospects and deducted 50% towards personal expenses and the total monthly income comes to Rs.8,953/- (Rs.12,790/- + 40% -50%). Thus, the total loss of income comes to Rs.19,34,928/- (Rs.8,953/- x 12 x 18 = Rs.19,33,848/-). Apart from that, the Tribunal has awarded only a sum of Rs.75,000/- towards loss of love and affection. Considering the parents and the minor children, the same is enhanced to Rs.1,20,000/- and another Rs.5,000/- added towards funeral expenses. The compensation is as follows:

S. No	Description	Amount awarded by the Tribunal
1.	Loss of income	Rs.19,33,848/-
2.	Loss of love and affection	Rs.1,20,000/-
3.	Funeral expenses	Rs.15,000/-
4.	For transportation	Rs.5,000/-
	Total	Rs.20,73,848/-

7. The second respondent/Insurance Company is directed to deposit the entire award amount within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the first appellant/mother is entitled to a sum of Rs.10,73,848/- and the appellants 2 and 3 each entitled to Rs. 5,00,000/- with accrued interest. In respect of the minor claimant, the amount shall be deposited in a Nationalised Bank till he attains majority and the



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guardian of the minor claimant is permitted to withdraw the interest once in three months.

8. With the above modification, the Civil Miscellaneous Appeal is partly allowed. No costs.

24.03.2023

akv

To

The Motor Accident Claims Tribunal,
Sub Court,
Kuzhithalai.



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