



C.M.A.(MD)No.539 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2023

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

C.M.A.(MD)No.539 of 2020

1.Krishnaveni
2.Minor Y.Balamugunthan
3.Minor Yuvasri ...Appellants / Petitioners
(Minors are represented by her mother and natural guardian, the first
appellant.)

/Vs./

1.V.Selvam
2.Sriram General Insurance Co. Ltd.,
Rep. by its General Manager,
E8, EPRO Rico Industrial Area,
Sitapura,
Jaipur, Rajasthan – 302 022.

3.Komalavalli
4.Rajendran ...Respondents / Respondents

PRAYER:- Appeal - filed under Section 173(1) of the Motor Vehicles
Act, 1988 to allow the appeal and modify the judgment and decree dated



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29.07.2020 in M.C.O.P.No.478 of 2018 on the file of the Motor Accident Claims Tribunal (Special District Court), Thanjavur, by enhancing the award amount to Rs.40,00,000/- to the appellants with proportionate interest.

For Appellants : Mr.G.Karnan

For Respondents : Mr.D.Sivaraman (R2)

No appearance (R1, R3 & R4)

JUDGMENT

(Judgment of the Court was made by **DR.ANITA SUMANTH, J.**)

This appeal has been filed by the wife and two minor children of one Yuvaraj, who had been involved in an accident on 24.01.2018, passing away on 09.02.2018. The appellants had preferred a claim before the Motor Accident Claims Tribunal (Special District Court), Thanjavur, in M.C.O.P.No.478 of 2018. The Tribunal fixed the compensation by way of an award passed on 29.07.2020, challenging which the present appeal has been filed.

2. The deceased was aged 37 at the time of demise and had been working in a private company. The first appellant and the deceased had been proceeding from their house to the bus stand by a two wheeler,



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when vehicle (TATA ACE) driven by the first respondent had overtaken the two wheeler and colluded with the same.

3. Both the deceased and his wife, who was riding pillion, had sustained serious injuries. The deceased had initially been admittedly in the Tanjore Medical College Hospital and thereafter in a private hospital, where he succumbed to the injuries on 09.02.2018. At the time of his demise, the second appellant was aged 6 years and the third appellant was in the womb of her mother. She was born on 23.06.2018, after the demise of her father.

4. The award passed by the Tribunal determines the compensation in the following manner:-

<i>“1.Approx. Monthly Income</i>	<i>- Rs.25,000/-</i>
<i>2.Future Prospects Added</i>	<i>- Rs.35,000/-</i>
<i>3.Personal Expenses (-)</i>	<i>- Rs.8750</i>
<i>4.Annual Income</i>	<i>- Rs.3,15,000/-</i>
<i>5.Multiplier of 15 Added</i>	<i>- Rs.47,25,000/-</i>
<i>6.Income Tax Deduction</i>	<i>- Rs.12,30,0000/-</i>
<i>7.Loss of Income After IT deduction</i>	<i>- Rs.34,95,000/-</i>
<i>8.Loss of Consortium</i>	<i>- Rs.40,000/-</i>
<i>9.Funeral Expenses</i>	<i>- Rs.15,000/-</i>
<i>10.Loss of Estate</i>	<i>- Rs.15,000/-</i>
<i>11.Medical Expenses</i>	<i>- Rs.4,51,690/-</i>
<i>Total Compensation</i>	<i>- Rs.40,16,690/-”</i>



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5. The appeal has been filed on the ground that the computation of compensation awarded, does not satisfy proper parameters, as evolved over time by the Courts. Though the errors in computation as pointed out by the appellants are many, upon discussion in the course of hearing today, we are in a position to arrive at a determination of computation that finds acceptance by the appellants as well as the Insurance Company.

6. The income of the deceased has been fixed at a sum of Rs. 25,000/- per month. Upon consideration of future prospects, income per month stands enhanced to Rs.35,000/- and the annual income arrived at is thus arrived at a sum of Rs.4,20,000/-. Deduction for personal expenditure has been adopted at 1/4th thereof and loss of income is quantified at Rs.47,25,000/-.

7. The Tribunal has fixed deduction of income tax at a rate of 26% (approx.) amounting to a sum of Rs.12,30,000/-. We find this to be on higher side. As per the applicable slabs under the Income Tax Act, 1961, income upto 2.5 lakhs would suffer no income tax, and income



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between Rs.2,50,000/- and Rs.5,00,000/-, would suffer tax at the rate of 5%.

8. Further, an error has crept into the computation for conventional damages that are to be attributed to all legal heirs being wife, children and parents. In the present case, the Tribunal has proceeded to award conventional damages to the wife alone of a sum of Rs.70,000/-.

9. In our view, loss of consortium must be awarded to each of the claimants at an Rs.40,000/- each. We further quantify loss of estate at a sum of Rs.15,000/- and funeral expenses at an amount Rs.15,000/-, in all, a sum of Rs.2,30,000/-. The computation as aforesaid, finds acceptance by all parties. The total amount of compensation would thus be a sum of Rs.53,11,065/-.

10. Despite being an award of 2020 vintage, not a paisa has been deposited thus far by the Insurance Company. Hence, the Company is granted a period of four weeks from date of receipt of a copy of this order to deposit the amount in entirety, with interest and costs, to the



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credit of MCOP No.478 of 2018 on the file of the Special District Judge,
Thanjavur.

11. The appellants are permitted to produce necessary documents before the Tribunal thereafter, seeking withdrawal. The allocation of the amount awarded under this order shall be in the same proportion as directed by the Tribunal in paragraphs 14 (1) to (8) of its award dated 29.07.2020. Disposed with no order as to costs.

[A.S.M.J.] & [R.V.J.]
10.08.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes
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Note: Issue order copy on 28.08.2023.



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TO:

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- 1.The Motor Accident Claims Tribunal
(Special District Court), Thanjavur.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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Judgment made in
C.M.A.(MD)No.539 of 2020

Dated:
10.08.2023