



C.M.A.(MD).No.898 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD).No.898 of 2021

- 1.Kavitha
- 2.Minor Kiruthika
- 3.Minor Sachin

(Minors 2nd and 3rd appellants
represented through their mother /natural
guardian, the 1st appellant herein)

4.Meenambal

... Appellants

Vs.

- 1.S.Senthilkumar
- 2.The Divisional Officer,
United India Insurance Company Limited,
No.7-A, West Veli Street,
Madurai 625 001.
The 1st respondent ex-parte
before the trial Court.
Notice is dispensed with)

... Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the order passed in M.C.O.P.No.50 of 2020 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Ramanathapuram dated 23.12.2020, for enhancement of compensation.



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For Appellants : Mr.K.Kumaravel
For R2 : Mr.C.Jawahar Ravindran

J U D G M E N T

This appeal has been filed by the claimants seeking enhancement of compensation.

2. The brief facts leading to the filing of this appeal are as follows:

On 14.05.2007, at about 1.40 p.m., when the deceased was travelling in a car bearing Registration No.TN 65 F 9192 from Kumbakonam to Ramanathapuram, the bus bearing Registration No.TN 55 H 0933 was driven in a rash and negligent manner and dashed against the car of the deceased. As a result, the deceased succumbed to injuries. He was earning a sum of Rs. 14,500/-. Hence, the legal heirs of the deceased filed the claim petition before the Tribunal seeking compensation.

3. It is the contention of the Insurance Company before the Tribunal that the driver of the first respondent did not possess valid driving licence and the income and other aspects have not been disputed.



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4. Before the Tribunal, on the side of the petitioners, P.Ws.1 to 3 were examined and Exs.P1 to P22 were marked and on the side of the respondents, R.Ws.1 and 2 were examined and Ex.R1 was marked.

5. Based on the materials, the Tribunal has found that only the driver of the offending vehicle was negligent in driving the vehicle and after taking note of Ex.P18 / Income Tax Return, the Tribunal has fixed the income of the deceased at Rs.1,05,440/- and adding relevant multiplier and future prospects, totally awarded a sum of Rs.18,86,000/- as compensation. Not satisfied with the same, the present appeal has been filed.

6. The learned counsel appearing for the appellants would fairly submit that the approach of the Tribunal in fixing the average annual income is correct and the Tribunal has fixed the annual income of the deceased at Rs. 1,1,47,616/-, on the basis of the documents. The only grievance before this Court is that the Tribunal has not awarded any amount towards loss of love and affection to the petitioners 2 to 4. Besides no amount has been awarded towards transportation charges and the other aspects except that, he has no grievance.



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7. In the light of the above submissions, this Court is of the view that the Tribunal has not awarded any amount towards loss of love and affection to the petitioners 2 to 4 and transportation charges. Hence, a sum of Rs.1,20,000/- is awarded towards loss of love and affection. Apart from that, a sum of Rs. 15,000/- is awarded towards transportation charges. The amount awarded towards loss of love and affection shall be apportioned among the petitioners 2 to 4 and the amount awarded towards transportation charge shall be apportioned to the first petitioner and the amount awarded by the Tribunal under the other heads is confirmed. The second respondent/Insurance Company is directed to deposit the entire award amount along with interest at the rate of 7.5% within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants 1 and 4 are permitted to withdraw their share as apportioned by the Tribunal. In respect of the minor claimant, the amount shall be deposited in a Nationalised Bank till they attain majority and the guardian of the minor claimant is permitted to withdraw the interest once in three months.

8. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

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To
The Motor Accident Claims Tribunal,
Principal District Judge,
Ramanathapuram.

N.SATHISH KUMAR,J.

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