



C.M.A. (MD) No. 748 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.08.2023

Pronounced on : 29.08.2023

CORAM:

THE HON'BLE MR.JUSTICE **K.MURALI SHANKAR**

C.M.A.(MD)No.748 of 2019

1. P.Muthu Selvi

2. A.Pitchaiperumal

... Appellants/
Petitioners

Vs.

1. The Managing Director,
State Express Transport Corporation Ltd.,
Pallavan Salai,
Chennai.

2. Simplex Infrastructures Limited,
Simple House,
27, Shakespeare,
Sarani, Kolkata,
West Bengal – 700 017.

3. Reliance General Insurance Company Limited,
11th Cross, Main Road,
Thillai Nagar,
Trichy – 18.

... Respondents/
Respondents



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Prayer : This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to modify and enhance the compensation award amount passed in M.C.O.P.No.93 of 2015 on the file of the Motor Accident Claims Tribunal/Principal District Court, Tiruchirappalli dated 01.02.2019 by allowing the Civil Miscellaneous Appeal.

For Appellants : Mr.N.Sudhagar Nagaraj
For R1 : Mr.P.Prabhakaran
For R2 : Mr.Raguvaran Gopalan
For R3 : Mr.V.Sakthivel

JUDGMENT

The Civil Miscellaneous Appeal is directed against the award passed in M.C.O.P.No.93 of 2015 dated 01.02.2019 on the file of the Motor Accident Claims Tribunal/Principal District Court, Tiruchirappalli.

2. The appellants/claimants, who were awarded with compensation of Rs.2,80,000/- (Rupees Two Lakhs and Eighty Thousand only) with interest at 7.5% per annum payable by the first respondent/Transport Corporation for the death of their 2 year old son, consequent to an



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accident occurred on 16.05.2012, challenged the quantum of compensation awarded at, by the Tribunal and claimed enhancement of the same.

3. The Tribunal has fixed the annual income of the deceased as Rs.15,000/- (Rupees Fifteen Thousand only) and applying multiplier 15 has arrived at Rs.2,25,000/- (Rupees Two Lakhs and Twenty Five Thousand only) for the life dependency of the family and by adding Rs.15,000/- (Rupees Fifteen Thousand only) for transport expenses and Rs.10,000/- (Rupees Ten Thousand only) for funeral expenses has granted total compensation of Rs.2,80,000/- (Rupees Two Lakhs and Eighty Thousand only).

4. The learned counsel appearing for the appellants/claimants would submit that the notional annual income fixed by the Tribunal is very very low and the Tribunal has not granted any amount towards loss of consortium and the amounts awarded under the conventional heads are also very low.



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5. The only point that arises for consideration is as to whether the quantum of compensation awarded by the Tribunal is just and proper and is in accordance with law?

6. It is not in dispute that the deceased boy was aged 2 years at the time of accident.

7. The Hon'ble Supreme Court in *Kishan Gopal and another Vs. Lala and others* reported in *2014 (1) SCC 244*, for the death of 10 years old boy, has fixed the notional income at Rs.30,000/- (Rupees Thirty Thousand only) per annum and applied multiplier 15. In the case of *Lata Wadhwa Vs. State of Bihar* reported in *(2001) 8 SCC 197*, the Hon'ble Apex Court has fixed the notional annual income of the deceased between the age group of 10 to 15 years at Rs.24,000/- (Rupees Twenty Four Thousand only) for the accident occurred in the year 1989. A learned Judge of this Court in *The Manager, Cholamandalam MS General Insurance Co. Ltd., Dharmapuri Vs. Muniyappan and others* (*C.M.A.No.1647 of 2020 dated 07.12.2020*), considering the facts that the accident was occurred in the year 2017 and the deceased was aged 3 years



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at the time of accident, has fixed the notional monthly income at Rs. 3,500/- (Rupees Three Thousand and Five Hundred only).

8. In the case on hand, considering the fact that the accident was occurred on 16.05.2012 and taking note of the age of the deceased, this Court fixes the notional monthly income at Rs.3,000/- (Rupees Three Thousand only). As per the decision of the Hon'ble Supreme Court in ***Reshma Kumari Vs. Madan Mohan*** reported in **(2013) 9 SCC 65**, the appropriate multiplier would be 15. Hence, the loss of dependency would be Rs.5,40,000/- (Rs.3,000/- x 12 x 15).

9. The appellants/claimants are also entitled to get Rs.15,000/- (Rupees Fifteen Thousand only) for funeral expenses and Rs.15,000/- (Rupees Fifteen Thousand only) for loss of estate under the conventional heads. The appellants/claimants being the parents of the deceased are also entitled to get Rs.40,000/- (Rupees Forty Thousand only) each for loss of filial consortium. Hence, the appellants/claimants are entitled to get total compensation of Rs.6,50,000/- (Rupees Six Lakhs and Fifty Thousand only).



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10. No doubt, the appellants/claimants in the appeal have restricted their claim to Rs.2,20,000/- (Rupees Two Lakhs and Twenty Thousand only). But the learned counsel appearing for the appellants/claimants would submit that the appellants/claimants are entitled to get just compensation and that the Court can award more compensation than the amount claimed in the petition or appeal.

11. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in ***Surekha and others vs. Santosh and others*** (C.A.No.476 of 2020 dated 21.01.2020) wherein, the Hon'ble Apex Court has held as follows:-

“2. This appeal takes exception to the judgment and order dated 04.01.2019 passed by the High Court of Judicature at Bombay, Bench at Aurangabad in First Appeal No.2564 of 2016, whereby the High Court, even though agreed with the stand of the appellants that just compensation amount ought to be Rs.49,85,376/- (Forty-Nine Lakh Eighty-Five Thousand Three Hundred Seventy-Six Only), however, declined to grant enhancement merely on the ground that the appellants had failed to file cross-appeal.



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3. *By now, it is well-settled that in the matter of insurance claim compensation in reference to the motor accident, the court should not take hyper technical approach and ensure that just compensation is awarded to the affected person or the claimants."*

12. Considering the other facts and circumstances of the case, this Court further decides that the parties are to be directed to bear their own costs and the above point is answered accordingly.

13. In the result, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.2,80,000/- (Rupees Two Lakhs and Eighty Thousand only) is hereby enhanced to **Rs.6,50,000/- (Rupees Six Lakhs and Fifty Thousand only)** together with interest at 7.5% per annum and costs and out of the said compensation amount, the first appellant/first claimant is entitled to get **Rs.4,00,000/- (Rupees Four Lakhs only)** and the second appellant/second claimant is entitled to get **Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only)**. The first respondent/Transport Corporation is directed to deposit the modified award amount with interest and costs to the credit of M.C.O.P.No.93 of



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2015 on the file of the Motor Accident Claims Tribunal/Principal District Court, Tiruchirappalli, after deducting the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/claimants are permitted to withdraw their shares together with interest and costs, less amount already withdrawn, if any, on due application before the Tribunal. Parties are directed to bear their own costs.

29.08.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
csm

To:

1. The Motor Accident Claims Tribunal/
Principal District Court, Tiruchirappalli.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
C.M.A.(MD)No.748 of 2019

Dated : 29.08.2023