



CMA(MD).No.1042 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 12.04.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1042 of 2017

1. S.Vijaya Baskar

2. Minor V.Vijayaarivarsan

....Appellants/Petitioners

Vs.

1. R.Ravi

2. M/s. ICICI Lombard General Insurance Company Ltd.,
Zenith House,
Keshavrao Khade Marg,
Mahalakshmi,
Mumbai – 400 034.

... Respondents/ Respondents

(1st respondent was set ex-parte before Tribunal
hence notice to respondent be dispensed with)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 30.08.2013 in M.C.O.P.No.62 of 2010, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Pudukkottai.



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For Appellants : Mr.PT.S.Narendravasan
For Respondents : Mr.V.Muthukamatchi – for R2
: R1- Ex-parte

J U D G M E N T

The present appeal has been filed by the claimants seeking enhancement of the compensation of the award passed by the Motor Accident Claims Tribunal/Principal District Court, Pudukkottai in M.C.O.P.No.62 of 2010.

2. Admittedly, the deceased was a house wife. The Tribunal, taking into consideration the notional monthly income at Rs.5,000/- (Rupees Five Thousand only) and applying the multiplier of “18”, arrived at Rs.5,40,000/- (Rupees Five Lakhs and Forty Thousand only) for loss of dependency.

3. The learned counsel appearing for the appellants, relying upon the judgment of the Honourable Supreme Court reported in **2021 (1) TANMAC 785 (Rajendra Singh and others Vs. National Insurance Company Ltd., and others)**, and contended that 40% of future prospectus should be added even in the case death of the house wife.



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4. The learned counsel appearing for the appellants had further contended that for loss of consortium to the husband only a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) has been awarded. He further contended that only a sum of Rs.10,000/- (Rupees Ten Thousand only) has been awarded towards funeral expenses. He further contended that due to the accident, the deceased was admitted as an inpatient for six days and no attender charges have been awarded. Hence, he prayed for enhancement of the compensation.

5. Per contra, the learned counsel appearing for the second respondent had contended that the loss of dependency as well as under the other heads, the Tribunal has been liberal and has awarded excess amount than that has been prayed for. Therefore, there is no scope for interference in the said award and the enhancement of compensation.

6. I have carefully considered the submissions made by the learned counsel on either side.



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7. As rightly contended that the learned counsel appearing for the appellants, in the judgment of the Honourable Supreme Court reported in **2021 (1) TANMAC 785 (Rajendra Singh and others Vs. National Insurance Company Ltd., and others)**, in paragraph No.11, the Hon'ble Supreme Court considering the notional income of house wife at Rs.5,000/- (Rupees Five Thousand only) per month, has held that the claimants would be entitled for future prospectus at the rate of 40%. Considering the above said facts, a sum of Rs.2,000/- (Rupees Two Thousand only) has been added to the notional monthly income of Rs.5,000/- (Rupees Five Thousand only) of the house wife and the monthly income can be arrived at Rs.7,000/- (Rupees Seven Thousand only). The deceased being a house wife, who had passed away, leaving behind her husband and minor son, the Tribunal has erroneously deducted 50% of the amount towards her personal expenses instead of 1/3rd deduction. After 1/3rd deduction the monthly income would be at Rs.4,650/-(Rupees Four Thousand Six Hundred and Fifty only). Therefore, the loss of dependency would be calculated as $(4,650 \times 12 \times 18 = 10,04,400/-)$ Therefore, this Court enhances the loss of dependency



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from Rs.5,40,000/- (Rupees Five Lakhs Forty Thousand only) to Rs.10,04,400/- (Rupees Ten Lakhs Four Thousand and Four Hundred only).

8. The loss of consortium to the first claimant/ husband has been fixed at a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) by the Tribunal. However, this Court is inclined to enhance the said amount to a sum of Rs.40,000/- (Rupees Forty Thousand only). A sum of Rs.10,000/- (Rupees Ten Thousand only) has been awarded towards funeral expenses and in view of the judgment of the Hon'ble Supreme Court, the funeral expenses is enhanced to a sum of Rs.25,000/- (Rupees Twenty Five Thousand only). Admittedly the deceased was an inpatient from 19.10.2009 to 25.10.2009. Therefore, a sum of Rs.10,000/- (Rupees Ten Thousand only) has to be awarded towards attender charges.

9. In view of the above said facts, the compensation amount under various heads are modified as follows:



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Loss of Dependency	: Rs.10,04,400/-
Transport Charges	: Rs. 10,000/-
Medical Expenses	: Rs. 40,200/-
Pain and Sufferings	: Rs. 10,000/-
Loss of Consortium to the 1 st Claimant	: Rs. 40,000/-
Loss of Love and Affection to the 2 nd Claimant	: Rs. 40,000/-
Funeral Expenses	: Rs. 25,000/-
Attender Charges	: <u>Rs. 10,000/-</u>
Total	: Rs.11,79,600/-

10. Therefore, the compensation has been enhanced from Rs.6,75,200/- to Rs.11,79,600/- (Rupees Eleven Lakhs Seventy Nine Thousand and Six Hundred only) and the said amount will carry interest at the rate of 7.5% per annum from the date of the claim petition. The 1st claimant/husband shall be entitled to Rs.5,00,000/- (Rupees Five Lakhs only) and the balance amount shall be paid to the 2nd claimant/son as compensation. The Insurance Company is directed to deposit the balance amount within a period of eight weeks from the date of receipt of a copy of this order.



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11. This Civil Miscellaneous Appeal is partly allowed to the extent as sated above. There shall be no order as to costs.

12.04.2023

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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To

1. The Motor Accidents Claims Tribunal,
Principal District Court,
Pudukkottai.
2. M/s. ICICI Lombard General Insurance Company Ltd.,
Zenith House,
Keshavrao Khade Marg,
Mahalakshmi,
Mumbai – 400 034.
3. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

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R.VIJAYAKUMAR,J.

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Judgement made in
C.M.A(MD)No.1042 of 2017

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