



C.M.A(MD)No.1054 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.03.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1054 of 2022

1.Anbarasan

2.Singaram

... Appellants/Petitioners

Vs.

1.M/s.V.K.M.Transports,
No.55/49, South Madavilagam Street,
Karur District.

2.The Branch Manager,
National Insurance Company Limited,
No.63, West Pradhakshnam Road,
Karur.

... Respondents/ Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, to modify the judgment and decree, dated 13.08.2018 in M.C.O.P.No.253 of 2016 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Karur and seeking enhancement of compensation of Rs.10,00,000/- with interest.

For Appellants : Mr.N.Sudhagar Nagaraj



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For R2 : Mr.D.Sivaraman

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JUDGEMENT

The present appeal has been filed by the claimants, namely the parents of the deceased seeking enhancement of the compensation for the death of their son, who was a 4th year engineering student in the year 2016.

2. According to the learned counsel appearing for the appellants, the tribunal has taken Rs.15,000/- as notional income per month of an engineering college student. However, as per the judgment of the Division Bench reported in **2021 (1) TN MAC 805 (Reliance General Insurance Co.Ltd Vs. A.Senthilkumar & Others)**, the notional monthly income should be taken at the rate of Rs.18,000/- per month for an engineering college student. He further contended that the tribunal has not awarded any amount towards the loss of future prospects of the deceased. Therefore, he prayed for enhancement of the said award passed by the tribunal.



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3. Per contra, the learned counsel appearing for the insurance company had contended that the fixation of notional income per month of a student depends upon various facts and circumstances and therefore, the question of seeking enhancement of monthly notional income would not arise. He further contended that the company had filed an appeal even challenging the fixation of Rs.15,000/- as notional income per month.

4. I have carefully considered the submissions made on either side.

5. The present appeal has been filed by the claimants seeking enhancement primarily on the fixation of the notional monthly income and also for not awarding the future prospects. Admittedly, the deceased was a 4th year engineering college student when the accident took place on 09.01.2016. The Hon'ble Division Bench in a judgment reported in **2021 (1) TN MAC 805 (Reliance General Insurance Co.Ltd Vs. A.Senthilkumar & Others)** had taken the monthly notional income at Rs.18,000/- for an accident that has taken place in the year 2009, in which an engineering college student had passed away.



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6. In the present case, the accident has taken place in the year 2016 involving an engineering college student. Therefore, this Court is of the view that the same Rs.18,000/- (Rupees Eighteen Thousand) could be fixed as monthly notional income for an engineering college student in the present case also. However, this Court is not inclined to accept the plea of the learned counsel appearing for the appellants/claimants that 50% should be enhanced towards future prospects. When the income of a student itself is notional/speculative, the question of granting future prospects at the rate of 50% would not be justifiable.

7. However, the deduction towards personal expenses has to be made at the rate of 50% and hence, the monthly income should be taken as Rs.9,000/- (Rupees Nine Thousand only) per month. Considering the facts and circumstances of the case, this Court is of the opinion that future prospects could be added at the rate of 30% from Rs.9,000/- (Rupees Nine Thousand only). Towards future prospects, it would be arrived at Rs.2,700/- (Rupees Two Thousand and Seven Hundred only). As rightly contended by the learned counsel appearing for the appellants, the correct multiplier that is applicable to the present case is 18. If the loss of personal income is calculated at $11,700 \times 18 \times 12$, it would be



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arrived at Rs.25,27,200/- (Rupees Twenty Five Lakh Twenty Seven Thousand and Two Hundred only). However, the tribunal has awarded only Rs.16,20,000/- (Rupees Sixteen Lakh and Twenty Thousand only) towards loss of income.

8. The compensation under the category of loss of income is enhanced from Rs.16,20,000/- (Rupees Sixteen Lakh and Twenty Thousand only) to Rs.25,27,200/- (Rupees Twenty Five Lakh Twenty Seven Thousand and Two Hundred only). The compensation under the other heads awarded by the tribunal is hereby confirmed. The award of the tribunal viz. Rs.17,50,000/- is enhanced to Rs.26,57,200/-. The insurance company is directed to deposit the enhanced compensation amount within a period of eight (8) weeks from the date of receipt of a copy of this order.

9. Accordingly, the present Civil Miscellaneous Appeal is allowed to the extent as stated above. No costs.

15.03.2023

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

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To

1.The Motor Accident Claims Tribunal /
Principal District Judge,
Karur.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
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