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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.04.2023**

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A(MD)No.426 of 2023

1.Amutha

2.karunanithi :Appellants/Claimants

.VS.

1.Anbalagan

2.The Manager(Law),
Bharathi Axa General Insurance Company Limited,
162, Metro Plaza, Second Floor,
Anna Salai,
Chennai. :Respondents/Respondents

(R1 was set exparte before the Tribunal. Hence notice may be given up as against R1)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act for enhancement of compensation against the judgment and decretal order made in M.C.O.P.No.198 of 2011, dated 20.12.2013, on the file of the Motor Accidents Claims Tribunal/Special District Court, Thanjavur.

For Appellant :Mr.G.Karnan

For Respondent-1 :Exparte before the Tribunal

For Respondent-2 :Mr.P.Pethu Rajesh



JUDGMENT

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This Civil Miscellaneous Appeal is filed seeking enhancement of compensation by the claimants.

2.The parties are referred to herein as per their ranking before the Tribunal.

3.The breief facts leading to the filing of the appeal is as follows:

The deceased Karthi, son of the Petitioners, was aged about 21 years at the time of accident and he was travelling in a motor cycle bearing Registration NO. TN 45 K 8604 from West to east in Thanjavur-Nagapattinam Highways and at about 7.30 p.m., the lorry bearing Registration No. TN 04 L 7374 driven by its driver in a rash and negligent manner and dashed against the motor cycle and as a result, the deceased succumbed to injujries and he was earning a sum of Rs.6000/-p.m. Hence the parents of the deceased claim compensation.

4.The second respodnent took a stand that the driver of the lorry has valid driving licence and he had driven the lorry



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cautiously and only the deceased drove the motor vehicle in a rash and negligent manner and caused the accident.

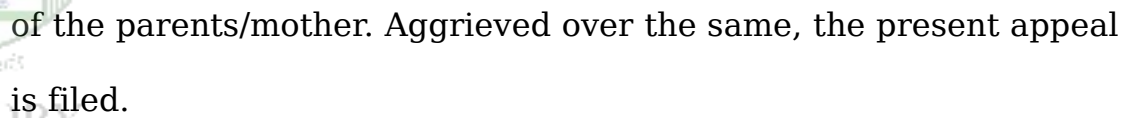
5. Before the Tribunal, on the side of the Petitioners, P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P4 were marked. On the side of the respondents, P.W.1 was examined and Ex.R1 was marked.

6. Based on the evidence and other connected materials, the Tribunal held that the driver of the lorry drove the vehicle in a rash and negligent manner and caused the accident and these aspects have not been challenged by the Insurance Company. The present appeal has been filed challenging only the quantum of compensation awarded by the Tribunal. The Tribunal has awarded the compensation as follows:

1. For loss of income	- Rs.,5,40,000/-
2. For loss of love and affection for petitioners 1 and 2	- Rs.30,000/-
3. For funeral expenses	- Rs.5000/-

total	- Rs.5,75,000/-

7. The Tribunal has fixed the notional income at Rs.4,500/- and deducted one third amount of the salary towards personal expenses of the deceased and adopted multiplier of 15 for the age



9. It is now well settled that the age of the deceased has to be taken into consideration for adopting the multiplier. The deceased is aged 21 years at the time of accident. Accordingly the proper multiplier is 18. This Court maintained the notional income fixed by the Tribunal. If the notional income is taken as Rs.4500/- and if 40% of the income is taken as future prospectus of the deceased and if it is added to the notional income, the total income comes to Rs.6300/- and if 50% is deducted towards personal



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income of the deceased, the income comes to Rs.3150/- and if the same is multiplied by 12 x 18, the total loss of income comes to Rs. 6,80,400/-. That apart, the tribunal has only awarded Rs.30,000/- for loss of love affection to Petitioners 1 and 2 at Rs.15,000/- each and the same is enhanced to Rs.40,000/- each and it will come to Rs. 80,000/- and the award of Rs.15,000/- towards funeral expenses is confirmed. Thus the total compensation payable to the claimants comes to Rs.7,75,400/- which is tabulated as follows:

S.No	Name of the heads	Awarded by the Tribunal	Awarded by this Court	Remarks
1	For loss of income	Rs. 5,40,000/-	Rs. 6,80,400/-	enhanced
2	For loss of love and affection to the Petitioners 1 and 2	Rs.30,000/- (Rs.15,000/- each)	Rs.80,000/-	enhanced
3	For funeral expenses	Rs.15,000/-	Rs.15,000/-	same
6	Total	Rs. 5,75,000/-	Rs. 7,75,400/-	enhanced

with interest at the rate of 7.5%p.a., from the date of claim petition till the date of realization.

10.In the result, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal is enhanced from



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Rs.5,75,000/- to Rs.7,75,400/-(Rupees seven lakhs seventy five thousand and four hundred only) with interest at the rate of 7.5%p.a., from the date of claim petition till the date of realization. The appellants are not entitled to interest for the delay period of 510 days as per order in C.M.P(MD)No.4677 of 2019, dated 30.3.2023. The second respondent Insurance Company is directed to deposit the above said enhanced award amount with accrued interest and costs, less the award amount if any already deposited, to the credit of the claim petition before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the claimants are permitted to withdraw equal share in the above said award amount ie,,3,87,700/- each with proportionate accrued interest and costs, less the award amount if any already withdrawn, by filing proper application before the Tribunal. The claimants are directed to pay the excess court fee, if any, towards the enhanced award amount before the Registry. Only on such deposit being made, Registry is directed to draft the decree in the above appeal. No costs.

25.04.2023

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



vsn

To

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- 1.The Motor Accidents Claims Tribunal,
(Special District Court),
Thanjavur..
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR.,J.

vsn

JUDGMENT MADE IN
C.M.A(MD)No.426 of 2023

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