



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.50 of 2024

1. Rama
2. Kalyanasundaram .. Appellants

Vs.

1. L.Subramani (Died in the accident)
2. United India Insurance Co., Ltd.,
Silingi Building No.134, Greams Road,
Chennai- 600 006.
3. Loganathan (Legal Representative of R1) .. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Order dated 12.07.2023 made in M.C.O.P.No.2866 of 2017 by the learned Motor Accident Claims Tribunal, (Special Sub Court No.1, Motor Accidents Claims Petitions) Small Causes Court at Chennai.

For Appellants : Mr.Amar Dineshbhai Pandiya
For Respondents : Ms.V.Pushpa (R1)
Mr.N.Naganathan (R2)



J U D G M E N T

WEB COPY

This Civil Miscellaneous Appeal has been filed seeking for enhancement of compensation granted by the award dated 12.07.2023 made in M.C.O.P.No.2866 of 2017 on the file of the Motor Accident Claims Tribunal, (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, at Chennai.

2. The Appellants are the Claimants in M.C.O.P.No.2866 of 2017 on the file of *Motor Accidents Claims Tribunal (Special Sub Court No.1, Motor Accident Claims Petitions), Small Causes Court at Chennai*. They filed the above said claim petition, claiming a sum of **Rs.25,00,000/-** as compensation for the death of one K.Aravind, who died in an accident that took place on 16.01.2017.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the rider of the Motor Cycle bearing Registration No.TN 22 CQ 2108, belonging to the 1st respondent and directed the 2nd Respondent-Insurance



Company to pay a sum of **Rs.16,97,600/-** as compensation to the Appellants

4. Not being satisfied with the amount awarded by the Tribunal, the Appellants have come out with the present Appeal seeking enhancement of compensation.

5. The learned counsel for the Appellants contended that the accident took place in the year 2017 and at the time of accident the deceased was 19 years and was studying B.S.c. course in SRM Arts and Science College, but the Tribunal without considering the same, has fixed monthly income of the deceased at Rs.10,500/- which is very low and requested this Court to fix notional income of the deceased at Rs.13,705/-, by applying the inflation index as per the Judgment of this Court in *Andal and two others Vs. Avinav Kannan and New India Assurance Company Ltd., Chennai* reported in *2019 (1) TNMAC 54 (DB)*. He further submitted that the compensation awarded by the Tribunal towards other heads is also very low and the same needs to be enhanced.

6. Per contra, learned counsel appearing for the 2nd respondent- Insurance Company contended that the Tribunal by taking note of facts and



WEB COPY



circumstances as well as the prevailing working atmosphere of the Society, has fixed the monthly income of the deceased at Rs.10,500/- per month which is reasonable. The Tribunal by considering oral and documentary evidence has awarded the reasonable compensation and therefore the same need not be interfered with.

7. Heard the learned counsel appearing for the Appellants as well as the learned counsel appearing for the 2nd Respondent-Insurance Company and perused the entire materials on record.

8. The accident occurred in the year 2017 and at the time of accident the deceased was 19 years and was studying B.Sc 2nd year in SRM College. The Tribunal by considering the prevailing working atmosphere of the Society, has fixed notional income of the deceased at Rs.10,500/- per month which, in the opinion of this Court, is very low. The Hon'ble Apex Court in the case of *Syed Sadiq Vs. United India Insurance Company* reported in **(2014 (1) TNMAC 459)**, has fixed the notional monthly income of the vegetable vendor at Rs.6,500/- for the accident which occurred in the year 2008. The cost of living has been increased enormously and salary of even



WEB COPY

unskilled workers being increased substantially and therefore, this Court is of the view that a sum of Rs.12,500/- can be fixed as monthly income of the deceased and accordingly a sum of Rs.12,500/- is fixed as monthly income of the deceased. and by adding 40% towards future prospects, a sum of Rs.17,500/-(12500+5000) is arrived and by adopting multiplier '18' as per Judgment of the Hon'ble Supreme Court in the case of **SARLA VERMA AND OTHERS VS. DELHI TRANSPORT CORPORATION AND ANOTHER** reported in (2009) 4 MLJ 997, a sum of Rs.37,80,000/- (17,500x12x18) is arrived and by deducting 50% towards personal expenses, a sum of **Rs.18,90,000/-** is awarded towards **Loss of Dependency** and hence the compensation towards Loss of Dependency is enhanced from Rs.15,87,600/- to Rs.18,90,000/-. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of	15,87,600/-	18,90,000/-	Enhanced



S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
	Dependency			
2.	Loss of Consortium	80,000/-	80,000/-	Confirmed
3.	Loss of Estate	15,000/-	15,000/-	Confirmed
4.	Funeral Expenses	15,000/-	15,000/-	Confirmed
	Total	Rs.16,97,600/-	Rs.20,00,000/-	Enhanced by Rs.3,02,400 /-

10.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.16,97,600/- is hereby enhanced to Rs.20,00,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The Appellants/Claimants are entitled for equal apportionment. The 2nd Respondent-Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of *six weeks* from the date of receipt of a copy of this judgment to the credit of **M.C.O.P.No.2866 of 2017** on the file of the Motor Accidents Claims Tribunal (Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai. On such deposit



C.M.A.No.50 of 20

being made, the Tribunal is directed to transfer the Award amount, as

WEB COPY

apportioned above, directly to the Bank account of the Appellants/Claimants through RTGS, within a period of **three weeks**. The Appellants/Claimants shall pay necessary Court fee, if any, on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

22.03.2024

arr

Index : Yes / No

Internet : Yes / No



WEB COPY

C.M.A.No.50 of 20



KRISHNAN RAMASAMY, J.

arr

To

1. United India Insurance Co., Ltd.,
Silingi Building No.134, Greams Road,
Chennai- 600 006.
2. The Motor Accident Claims Tribunal,
(Special Sub Court No.1, Motor Accidents Claims Petitions)
Small Causes Court at Chennai
3. The Section Officer,
VR Section,
High Court,
Madras.

C.M.A.No.50 of 2024



WEB COPY



C.M.A.No.50 of 20

22.03.2024

C.M.A.No.1838 of 2022

22.03.2024