



CMA No.1342 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1342 of 2021

Judgment reserved on 25.03.2024	Judgment pronounced on 28.03.2024
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1.Ambika
2.Minor Sivanantha
3.Minor Arish
(Minors 2 & 3 rep.by their
next friend/guardian
1st appellant mother Ambika) ... Appellants

Vs.

1.M/s.Proodle Hospitality Services (P) Ltd.,
Door No.22, Maharaja Surya Rao Road
Alwarpet, Chennai – 600 018.

2.M/s.HDFC ERGO General Insurance Company Ltd.,
New No.528, Old No.559, 2nd Floor
Anna Salai,
Teynampet, Chennai – 600 018. ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 13.08.2019 made in MCOP No.444 of 2017 on the file of the Motor Accident Claims Tribunal (Special District Court), Erode.



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For Appellant : Mr.K.Varadha Kamaraj

For R-1 : No appearance

For R2 : Mr.N.Somasundar

JUDGMENT

The appellants who are the wife and sons of the deceased Venkatachalam have filed this appeal seeking enhancement of compensation awarded in MCOP No.444 of 2017 on the file of Motor Accident Claims Tribunal (Special District Court), Erode.

2. The factum of accident, manner of accident, rash and negligent driving on the part of the driver of the vehicle belonging to the first respondent and the vehicle being insured with the second respondent/insurance company in the road accident are not in dispute. Accordingly, the findings rendered by the Trial Court with regard to negligence are hereby confirmed.

3. On the point of quantum of compensation, heard the counsel for the appellants as well as second respondent.

4.1 The first appellant who is the wife of the deceased filed claim



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petition seeking compensation for the death of her husband Venkatachalam who died in the road transport accident happened on 21.05.2017. To prove the income of the deceased, the first appellant examined PW3 – Kesavan who is working as an Accountant Manager in Venkatachalam Textiles India Pvt. Ltd. and marked Ex.P16 – salary certificate. On the date of accident, the deceased was aged 38 years. As per the judgment of the Hon'ble Supreme Court in ***SARLA VERMA & OTHER v. Delhi Transport Corporation & Another reported in 2009 (2) TNMAC (1) SC***, the Tribunal has rightly applied multiplier 15 and granted 40% enhancement towards future prospects as per judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others reported in 2017 (2) TNMAC 609***.

4.2 From the materials on record, it is seen that though Ex.P16 – salary certificate was marked to prove the income of the deceased, the Tribunal has rightly rejected the same holding that the appellants have not produced the registers maintained for having disbursed the salary to the deceased. In the absence of any material evidence to prove the income of the deceased, the Tribunal fixed the notional income of the deceased at Rs.8,000/- per month and after deducting 1/3rd towards personal expenses,



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awarded a sum of Rs.13,44,060/- as compensation towards loss of income.

Taking into consideration the year of the accident being 2017 and the age of the deceased, the notional income of the deceased is fixed at Rs.10,000/- per month. Thus, the loss of income awarded by the Tribunal at Rs.13,44,060/- is enhanced to Rs.16,80,000/-, details as follows -

$$10,000 + 4000 (10000 \times 40\%) \times 12 \times 15 \times 2/3 = \text{Rs.}16,80,000/-$$

4.3 The Tribunal has not awarded any compensation towards loss of love & affection and transportation charges. Considering the fact that the minor appellants who are the sons of the deceased have lost their father at their young age, this Court is inclined to award a sum of Rs.1,50,000/- (75,000/- each) as compensation towards loss of love & affection to the minor appellants 2 & 3 and Rs.15,000/- towards transportation charges. The compensation awarded by the Tribunal under other heads are just and reasonable and hence the same are confirmed. Accordingly, the compensation awarded by the Tribunal is enhanced from **Rs.14,14,060/- to Rs.19,15,000/-**, break-up as follows -

<i>Sl. No</i>	<i>Heads under which the amount is awarded</i>	<i>Amount awarded by the Tribunal – Rs.</i>	<i>Amount awarded by this Court – Rs.</i>
1.	Loss of income	13,44,060/-	16,80,000/-
2.	Funeral expenses	15,000/-	15,000/-



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<i>Sl. No</i>	<i>Heads under which the amount is awarded</i>	<i>Amount awarded by the Tribunal – Rs.</i>	<i>Amount awarded by this Court – Rs.</i>
3.	Loss of consortium to 1 st appellant	40,000/-	40,000/-
4.	Loss of estate	15,000/-	15,000/-
5.	Loss of love & affection to appellants 2 & 3	-	1,50,000/- (75000 x 2)
6.	Transportation charges	-	15,000/-
	Total	14,14,060/-	19,15,000/-

5. In total, the appellant / claim petitioner is entitled to a sum of Rs.19,15,000/- (Rupees Ninetten Lakhs Fifteen Thousand only).

6. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from **Rs.14,14,060/- to Rs.19,15,000/-**, to the extent indicated above, alongwith 7.5% interest per annum. No costs.

(ii) the second respondent/Insurance Company is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the first appellant is permitted to



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withdraw a sum or Rs.6,15,000/- alongwith proportionate interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) The minor appellants 2 & 3 are entitled to a sum of Rs.6,50,000/- each and the Tribunal is directed to deposit the share of the minor appellants 2 & 3 alongwith proportionate interest and costs, in a fixed deposit in any one of the Nationalised Bank, till the minor appellants attain majority. The 1st appellant, the mother of the appellants 2 & 3 is permitted to withdraw the accrued interest once in three months for the welfare of the minors.

(v) the appellants are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

28.03.2024

rg

Index : Yes/No

Speaking/Non-speaking order



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RMT.TEEKAA RAMAN, J.

rgr

To

1.The Special District Judge,
Motor Accident Claims Tribunal,
Erode.

2.The Section Officer,
V.R. Section,
High Court, Madras.

Judgment in
C.M.A.No.1342 of 2021

28.03.2024