



C.M.A.No.707 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.707 of 2024

Indirani (Died)

1.S.Sathya

2.N.Sundari

3.R.Sakthinaryanan

...Appellant

Vs

1.V.Kumar

2.United India Insurance Co. Ltd.,

Third Party Service Hub,

Plot No.35, 36, 37, AR Plaza,

45 Feet Road, Balaji Nagar Extern, Saram,

Puducherry 605 011.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal and enhance the compensation in MCOP.No.4051 of 2018 dated 23.11.2022 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Cuddalore.



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For Appellant : Ms.Ramya V.Rao

For Respondent : Mr.D.Bhaskaran, for R2

JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgment and decree dated 23.11.2022 in MCOP.No.4051 of 2018.

2. The learned counsel for the claimant would submit that on 27.05.2018, when the deceased Ramalingam was riding in a TVS 50 bearing Registration No.TN-21-T-1020 at Panruti-Kumbakonam Main Road, a Tourist Van bearing Registration No.TN-51-K-6503 came in a rash and negligent manner and dashed against him, due to which he was died on 03.06.2018. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Dependency	6,33,600
2	Loss of Love and Affection	30,000
3	Funeral Expenses	15,000
4	Loss of Estate	15,000
	Total	6,93,600



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3. She would further submit that in the present case, there is no dispute with regard to the occurrence of accident and fixation of negligence. The only issue is with regard to the quantum of compensation awarded by the Tribunal. At the time of accident, the deceased was working as a Contractor, however, without considering the same, the Tribunal had fixed only a sum of Rs.8,000/- as notional income of the deceased, which is too low. Hence, he requests this Court to fix a sum of Rs.15,000/- as notional income of the deceased.

4. Mr.D.Bhaskaran, learned counsel takes notice on behalf of the 2nd respondent and would fairly submit that a sum of Rs.10,000/- may be fixed as the notional income of the deceased.

5. Heard the learned counsel for the appellant and the respondents and also perused the documents available on records.

6. In the present case, the accident was occurred in the year 2018. At the time of accident, the deceased was working as a Contractor. Hence, considering



the year of accident, age and avocation of the deceased, this Court is inclined to fix the notional income as a sum of Rs.12,500/- instead of Rs.8,000/-. Hence, by adding 10% towards future prospects, by applying 9 as multiplier and by deducting 1/3rd towards the personal expenses of the deceased, the loss of income would be calculated as follows:

$$\begin{aligned} & \text{Rs.12,500/- (notional income) + Rs.1,250/- (10\% future prospects)} \\ & * 12 \text{ (months)} * 9 \text{ (multiplier)} * (2/3) \text{ (deduction towards personal expenses)} \\ & = \text{Rs.9,90,000/-} \end{aligned}$$

7. Further, it appears that only a sum of Rs.30,000/- was awarded towards the loss of Love and Affection for the claimants/siblings of the deceased, since they already got married and the same is on the lower side. Hence, this Court is inclined to award a sum of Rs.60,000/- (Rs.20,000/- each) towards the loss of Love and Affection for the claimants. That apart, it appears that no amount was awarded towards Transportation, hence, this Court is inclined to award a sum of Rs.10,000/- towards the same.

8. Accordingly, the compensation awarded by the Tribunal is modified as follows:



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<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Dependency	6,33,600	9,90,000
2	Loss of Love and Affection	30,000	60,000
3	Funeral Expenses	15,000	15,000
4	Loss of Estate	15,000	15,000
5	Transportation	Nil	10,000
	Total	6,93,600	10,90,000

9. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.10,90,000/-. Accordingly, the award amount stands increased from a sum of Rs.6,93,600/- to Rs.10,90,000/-. In all other aspects, the award of the Tribunal stands confirmed. It is also made clear that the compensation will be awarded to all the 3 claimants in the equal proportions.

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.10,90,000/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.4051 of 2018 dated 23.11.2022 on the file of the Motor Accident



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Claims Tribunal, Principal District Judge, Cuddalore. Upon such deposit, the Tribunal is directed to transfer the award amount to the claimants to their respective bank accounts, as per the proportion determined by this Court, by way of RTGS, within a period of three weeks from the date of deposit and receipt of the Bank details obtained from the claimants. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

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