



C.M.A.No.91 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.91 of 2021

1.Eswari
2.Vijayan
3.Ranjithkumar
4.Santhiya

... Appellants

Vs.

1.Raja
2.Gandhi
3.Shriram General Insurance Company Limited,
2nd Floor, CITI Centre Complex,
No.60, Thirumalai Pillai Road,
T.Nagar, Chennai – 17.
4.Chinnagounder
5.Royal Sundaram Alliance Insurance Company Limited,
4-A, 4th Floor, Thirumalai Towers,
723, Avinashi Road,
Coimbatore.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the above civil miscellaneous appeal and enhance the award amount in the judgment and decree dated 05.03.2020 made in M.A.C.T.O.P.No.269 of 2010 on the file of the Motor Vehicle Accident Claims Tribunal / Subordinate Judge Court, Sankari.



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For Appellants : Mr.T.S.Arthanareeswaran

For Respondents : R1 and R4 – NDW
vide endorsement made in E.B.
Mr.R.Nithishkumar for R3
for M/s.R.Sree Vidhya
Mr.M.Krishnamoorthy for R5

J U D G M E N T

This appeal has been filed by the appellants/ claimants challenging the judgment and decree passed in M.C.O.P.No.269 of 2010 dated 05.03.2020 on the file of the Motor Accidents Claims Tribunal / Subordinate Judge Court, Sankari.

2.The learned counsel appearing for the appellants submitted that on 11.06.2009 at about 5.45 a.m., the deceased Moorthi was going near Maniyanur Diversion Road at extremely left side of the Tiruchengode to Veur Main Road by an unregistered vehicle star post city with his brother. At that time, the driver of the vehicle bearing Registration No.TN-29 AA-4242 (Maruthi Omni), drove the vehicle in a rash and negligent manner and hit against the deceased Moorthi and also hit the backside of the lorry bearing Registration No.LA-01 C-1184 which was standing without any signal on the said road.



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3.The learned counsel appearing for the appellants further submitted that thereafter, the wife and children of the deceased Moorthi/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.10 Lakhs as compensation. After adjudication, the Tribunal dismissed the claim petition in respect of the second appellant and allowed the claim petition in respect of the appellants 1, 3 and 4 and awarded a sum of Rs.14,00,000/- as compensation along with interest at the rate of 7.5% per annum from the date of filing of the petition till the date of deposit with costs and directed the respondents 1 to 3 to jointly or severally deposit the compensation. Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants further submitted that the second appellant is the foster son of the deceased, however, the Tribunal did not award any compensation in favour of the second appellant. The learned counsel further submitted that the Tribunal did not award any amount for loss of love and affection and further submitted that the appellants are entitled for enhanced compensation.



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5.The learned counsel appearing for the third respondent Insurance Company submitted that though the appellants claim that the second appellant is the foster son of the deceased, the same was not established before the Tribunal and hence, the Tribunal did not award any compensation in favour of the second appellant. The learned counsel further submitted that the Tribunal after considering all the factual aspects, awarded compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the respective Insurance Company and perused the materials available on record.

7.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

8.The tribunal after elaborately discussing the factual aspects



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awarded a sum of Rs.13,50,000/- for loss of income, Rs.15,000/- for funeral expenses, Rs.15,000/- for loss of estate, Rs.40,000/- for loss of consortium and arrived at a total compensation of Rs.14,20,000/- rounded off to Rs.14,00,000/- with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit.

9.Though the appellants claim that the second appellant is the foster son of the deceased, the same was not established before the Tribunal and hence, the Tribunal did not award any compensation in favour of the second appellant and the same warrants no interference. The Tribunal has awarded compensation only for loss of consortium, which the first appellant is entitled to and has not awarded any amount for loss of love and affection which the appellants 3 and 4 are entitled to. Hence, this Court awards a sum of Rs.80,000/- [Rs.40,000/- each to appellants 3 and 4] for loss of love and affection. The amount awarded under the other heads in the opinion of this Court are just and reasonable and the same are confirmed. The Tribunal has rounded off the compensation by reducing a sum of Rs.20,000/- which in the opinion of this Court is unfair.



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10. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of income	Rs.13,50,000/-	Rs.13,50,000/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
3.	Loss of love and affection	---	Rs. 80,000/-
4.	Loss of consortium	Rs. 40,000/-	Rs. 40,000/-
5.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
	Total	Rs.14,20,000/-	Rs.15,00,000/-

11. The appellants 1, 3 and 4/ claimants are entitled to total compensation of Rs.15,00,000/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit.

12. The civil miscellaneous appeal is partly allowed. The judgment and decree passed in M.C.O.P.No.269 of 2010 dated 05.03.2020 on the file of the Motor Accidents Claims Tribunal / Subordinate Judge Court, Sankari, is modified to the above extent.

13. The third respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this



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judgment. On such deposit being made, the appellants 1, 3 and 4/ claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal / Subordinate Judge Court, Sankari, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants 1, 3 and 4/ claimants.

14.The civil miscellaneous appeal is partly allowed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal/
Subordinate Judge Court, Sankari.

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M.DHANDAPANI,J.
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