



C.M.A.No.978 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 25.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.978 of 2023

1. Kumar

2. Poonkodi

3. Priya

4. Muvendan

.. Appellants

Vs.

1.Nag A.Chockalingam

2. M/s.Royal Sundaram Alliance Insurance Co.Ltd.,
Visranthi Melaram Towers,
Karapakkam,
Chennai – 600 097.
Policy No.VPN0062492000101

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow the CMA and set aside the award and decree passed by the Motor Accident Claims Tribunal / Principal District Judge Perambalur by its decree and judgment dated 12.11.2021 and made in M.C.O.P.No.248 of 2019.



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C.M.A.No.978 of 2023

For Appellants : M/s.Sith Fathima Samt
for M/s.C.Vidhusan

For R2 : M/s.G.Harshavarthan

J U D G M E N T

The claimants who are the father, mother, sister and brother of the deceased Vijay, not being satisfied with the quantum of compensation fixed by the Tribunal have filed the present appeal against the award passed by the Motor Accident Claims Tribunal/Principal District Judge, Perambalur in M.C.O.P.No.248 of 2019 dated 12.11.2021.

2. The case of the claimants is that the deceased Vijay was standing along with his father and brother on the eastern side of (Chennai-Trichy NH 45 road) on 15.01.2019 and at about 10.00 p.m., the offending vehicle belonging to the first respondent was driven in a rash and negligent manner and it dashed on the deceased resulting in fatal injuries. Unfortunately, the deceased died on 21.01.2019. An FIR came to be registered in Cr.No.21 of 2019. It is under these circumstances, a claim petition came to be filed before the Tribunal.



3. The Tribunal on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to a conclusion that the accident had taken place only due to rash and negligent driving on the part of the offending vehicle. Having rendered such finding, the Tribunal proceeded to fix the total compensation of Rs.8,34,400/- in the following manner:-

Annual Income	=Rs.6,500+2,600 (40% future prospects) x 12 = Rs.1,09,200/-
After Deducting 1/2	=Rs.54,600/-
Applying multiplier 14	=Rs.54,600 x 14 = Rs.7,64,400/-
Loss of dependency	=Rs.7,64,400/-
Loss of Estate	=Rs.15,000/-
Funeral Expenses	=Rs.15,000/-
Filial Consortium	=Rs.40,000/-
Total	=Rs.8,34,400/-

4. The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed the present appeal seeking for enhancement of compensation.



C.M.A.No.978 of 2023

6. Heard the learned counsel for the appellants and the learned counsel for the second respondent.

7. This Court has carefully considered the submissions made on either side and the materials available on record.

8. This Court has also carefully gone through the award passed by the Tribunal.

9. The Tribunal while fixing the notional monthly income had fixed a sum of Rs.6500/- per month. The accident had taken place in the year 2019 and the deceased is said to have been engaged in the occupation of Centering Work and therefore, this Court is inclined to fix the notional monthly income at Rs.12,000/- per month.

10. The Tribunal has applied '14' multiplier considering the age of the parents. This method adopted by the Tribunal is unsustainable and the multiplier can be fixed only based on the age of the deceased. The age of the deceased in this case was 21 years and the appropriate multiplier would be '18'.



C.M.A.No.978 of 2023

WEB COPY 11. In the light of the above discussion, the compensation under the head of Loss of Income/Dependency is calculated as follows:-

Monthly income fixed	:	Rs.12,000/-
Future prospects to be added	:	40%
Notional Income arrived at	:	Rs.12,000/- + 40% Rs.16,800/-
After deducting 1/2 for personal expenses	:	Rs.8,400/-
Multiplier to be adopted	:	18
Loss of Dependency Rs.8,400/- X 12 X 18	:	Rs.18,14,400/-

12.The Tribunal has granted a sum of Rs.40,000/- as compensation under the head Filial Consortium. There are totally four dependants in this case who are the parents and the siblings of the deceased. Each of them will be entitled to a sum of Rs.40,000/- under the head of Loss of Love and Affection. Therefore, instead of granting compensation under the head of Filial Consortium, a consolidated compensation can be granted under the head of Loss of Love and Affection of Rs.1,60,000 (Rs.40,000 x 4). The compensation that has been fixed under the other



heads are reasonable and does not require interference of this Court. In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:-

Loss of dependency	=Rs.18,14,400/-
Loss of Estate	=Rs.15,000/-
Funeral Expenses	=Rs.15,000/-
Loss of love and affection	=Rs.1,60,000/-
Total	=Rs.20,04,400/-

13.The compensation awarded by the Tribunal at Rs.8,34,400/- is hereby enhanced to Rs.20,04,400/-. The 2nd respondent is directed to deposit the enhanced compensation together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four (4) weeks from the date of receipt of this judgment, if not already deposited. Insofar as the enhanced compensation of Rs.11,70,000/- is concerned, the appellants / claimants will not be entitled for interest for the period of delay of 225 days in filing this appeal. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



C.M.A.No.978 of 2023

14.In the result, the Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

25.06.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Principal District Judge,
Motor Accident Claims Tribunal,
Perambalur.

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.



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C.M.A.No.978 of 2023

N.ANAND VENKATESH, J.

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C.M.A.No.978 of 2023

25.06.2024