



C.M.A.No.2456 of 2012

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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1.Vasuki

2.Minor. Sowmiya

3.Minor. Navina

4.Minor. Kirupa Shankar

...Appellants

*(Minor petitioners 2 to 4 represented by their
next friend and mother 1st petitioner Vasuki)*

Vs.

1.K.Selvi

2.The New India Assurance Company Ltd.,

No.17, Fort Main Road,

Shevapet,

Salem – 636 002.

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree of the Motor Accidents Claims Tribunal (Principal District Judge) at Dharmapuri, dated 22.04.2010 in M.C.O.P.No.1095 of 2008.



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For Appellants : Mr.M.S.Gokul Raj
for Mr.P.Valliappan
For Respondents : Mr.J.Chandran for R2
R1 – No appearance

J U D G M E N T

This appeal is filed by the appellants/claimants challenging the judgment and decree passed by the Motor Accident Claims Tribunal/Principal District Judge, Dharmapuri in M.C.O.P.No.1095 of 2008 dated 22.04.2010.

2.The learned counsel appearing for the appellants submitted that on 18.09.2008, the deceased and others were returning from Chennai to Harur in a Tata Sumo car bearing Registration No.TN-29-M-8957 belongs to the first respondent and insured with the second respondent drove the same by its driver in a rash and negligent manner and dashed on the back side of the lorry bearing Registration No.TN-04-H-6750 near at Vedal Petrol Bunk in Chennai – Bangalore Main Road on at about 1.00 a.m. on 19.09.2008. Consequently, the front portion of the car severally



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damaged and the deceased Madhavan sustained severe and fatal injuries over his body and his life was succumbed on the spot itself.

3.The learned counsel appearing for the appellants submitted that thereafter, the wife and children of the deceased Madhavan, the appellant/claimants filed a claim petition before the Motor Accident Claims Tribunal, in M.C.O.P.1095 of 2008 claiming a sum of Rs.30,00,000/- as compensation for the death of Madhavan. After adjudication, the Tribunal awarded a sum of Rs.16,73,850/- as compensation along with interest at the rate of 7.5% per annum from the date of petition till the date of realization with costs. Aggrieved by the same, the claimants have preferred this appeal seeking enhancement of compensation.

4.The learned counsel appearing for the appellants further submitted that the deceased was working as Block Statistical Inspector in Collectorate Office at Dharmapuri and was earning a sum of Rs.17,107/- per month. However, the Tribunal has fixed the notional monthly income



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of the deceased at Rs.14,050/- per month and awarded only a sum of Rs.16,43,850/- for loss of dependency and the amount awarded under the other heads are also very meagre and hence, the appellants are entitled for enhancement of compensation. Hence, he prayed to allow the appeal.

5.Per contra, the learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference. Hence, he prayed for dismissal of the appeal.

6.Heard learned counsel appearing for the appellants as well as the second respondent 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.



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8.The Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.16,43,850/- for loss of dependency, Rs.5,000/- for loss of consortium to the first petitioner, Rs.5,000/- each for loss of love and affection to the petitioners 2 to 4, Rs.5,000/- for funeral expenses, Rs.5,000/- for transport expenses and arrived at a total compensation of Rs.16,73,850/- with interest at the rate of 7.5% per annum from the date of petition till the date of realization.

9.Perusal of records reveal that the deceased was working as Block Statistical Inspector in the Collectorate Office at Dharmapuri and was earning a sum of Rs.17,017/- per month. Hence, this Court fixes a sum of Rs.17,017/- as monthly notional income of the deceased. The appellants 1 to 4 are the dependents of the deceased. The Tribunal has rightly deducted 1/4 of the amount towards personal expenses and has rightly adopted the multiplier 13. Hence, the amount awarded for loss of dependency works out to Rs.26,01,924/- [$\text{Rs.17,107/-} \times \frac{1}{4} = \text{Rs.4,277/-}$; $\text{Rs.17,107/-} - \text{Rs.4,277/-} = \text{Rs.12,830/-}$; $\text{Rs.12,830/-} \times 30\% = \text{Rs.3,849/-}$; $\text{Rs.12,830/-} + \text{Rs.3,849/-} = \text{Rs.16,679/-} \times 12 \times 13 = \text{Rs.26,01,924/-}$].



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10.The Tribunal has failed to award any amount towards loss of estate. Hence, this Court is inclined to award Rs.15,000/- as loss of estate. The amount awarded under the heads of loss of love and affection and funeral expenses, in the opinion of this Court is very meagre. This Court is of the opinion that some amount has to be enhanced under the heads of loss of love and affection and funeral expenses. Accordingly, this Court awards a sum of Rs.1,20,000/- for loss of love and affection [Rs.30,000 x 4] and Rs.15,000/- for funeral expenses.

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

S.No.	Description	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Loss of Dependency	16,43,850/-	26,01,924/-
2.	Loss of consortium to 1 st petitioner	5,000/-	-
3.	Loss of love and affection 4 x Rs.30,000/-	15,000/-	1,20,000/-
4.	Loss of estate	-	15,000/-



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5.	Transport expenses	5,000/-	-
6.	Funeral expenses	5,000/-	15,000/-
	Total	16,73,850/-	27,51,924/-

12.The appellants 1 to 4/claimants are entitled to total compensation of Rs.27,51,924/- along with interest at the rate of 7.5% per annum from the date of petition till the date of realization.

13.The judgment and decree passed by the Motor Accident Claims Tribunal/Principal District Judge, Dharmapuri in M.C.O.P.No.1095 of 2008 dated 22.04.2010, is modified to the above extent.

14.The second respondent Insurance Company is directed to deposit the modified/enhanced amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first appellant is permitted to withdraw her share 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



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appellants 2 to 4 are permitted to withdraw their share as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to their majority. If the appellants 2 to 4 are still minor, their share shall be kept in an interest yielding fixed deposit with any of the Nationalized Bank, initially, for a period of three years to be renewed at period intervals until they attain majority and the interest derived from and out of the said shares of the minors shall be paid to the first appellant/mother every quarter to be utilized for the welfare of the said minors.

15.The appellants/claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellants/claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accident Claims Tribunal/Principal District Judge, Dharmapuri, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/claimants.



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16.The Civil Miscellaneous Appeal is partly allowed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

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

2.The Section Officer
VR Section
High Court of Madras, Chennai – 600 104.



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M.DHANDAPANI, J.

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