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C.M.A.No.272 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.272 of 2024

1. K.Arasu
2. A.Kamala
3. A.Pavithra

... Appellants/Petitioners

Vs.

1. The Oriental Insurance Company Ltd.,
Oriental House,
Old No.115, New No.216, 2nd Floor,
Prakasam Salai,
Broadway Road,
Chennai 600 108.
2. Trichy Sri Kannan Transports Pvt Ltd.,
P-6 and 7, 2nd Main Road,
Ramalinga Nagar,
Woriur,
Trichy 620 003.
3. Raj Singh

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the order passed in MCOP No.2355 of 2021 dated 08.12.2023 on the file of Motor Accidents Claims Tribunal (Special Sub Court-I), Chennai.

For Appellants : Mr.N.Elumalai



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For R1 : Mr.J.Chandran

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JUDGEMENT

This Civil Miscellaneous Appeal has been filed by the appellants/claimants, challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal vide award dated 08.12.2023 in M.C.O.P.No.2355 of 2021.

2. On 01.03.2021 at about 11.40 hours, when the deceased was riding a two wheeler bearing Reg.No.TN-16-Y-1078, he was hit by a lorry, bearing Reg.No.NL-01-G-0999, which was driven by its driver in a rash and negligent manner. As a result of which, the deceased sustained multiple grievous injuries all over his body and died on the spot. Hence, the appellants being the parents and sister of the deceased, made a claim petition before the Tribunal, claiming a sum of Rs.46,35,000/- as compensation.

3. On consideration of both oral and documentary evidence, the Tribunal has awarded a sum of Rs.26,14,000/- towards compensation to the appellants. Being not satisfied with the said compensation amount, the appellants have filed the present appeal.



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4. The learned counsel for the appellants submitted that, at the time of accident, the deceased was working as a Store Keeper in a private limited VR Mall, Anna Nagar and as per the appointment order, he was supposed to receive a sum of Rs.18,610/- per month and as per the salary slip for the month of February 2021, the deceased earned monthly gross income at Rs.16,526/-. Further, PW3 who was examined from the employer side, also confirmed the receipt of salary for a sum of Rs.16,526/- per month. The learned counsel for the appellants would contend that the Tribunal though fixed the monthly income of the deceased at Rs.16,526/- per month, but added only 40% towards future prospects instead of 50% since the deceased was in regular employment and receiving fixed salary. He relied upon the decisions rendered by the Hon'ble Apex Court in the case of *National Insurance Company Limited Vs. Pranay sethi and others* reported in *2017 (16) Supreme Court Cases 680*, wherein, it has been held that while determining the income, an addition of 50% of actual salary to the income of the deceased towards future prospects, where the deceased had a permanent job and was below the age of 40 years, should be made.

4.1. In the present case, on perusal of salary certificate, it is clear that the deceased was in regular employment, but the Tribunal has awarded 40%



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towards future prospects. Hence, the learned counsel seeks appropriate modification of the Tribunal's award. Further, he submitted that, the Tribunal has not awarded any amount towards “loss of love and affection”. Hence, he requests this Court to consider the same and enhance the compensation in favour of the appellants.

5. The learned counsel appearing for the first respondent/Insurance Company submitted that, the Tribunal has considered the salary slip of February 2021, wherein it has been stated that the deceased had earned a sum of Rs.16,526/- per month and the same was confirmed by PW2 employer of the deceased, the Tribunal has rightly considered and fixed the notional income of the deceased at Rs.16,526/- and there is no infirmity in this aspect. He also fairly submitted that the Tribunal has not awarded any amount towards “loss of love and affection” as well as the amount towards “future prospects” and the same may be re-determined by this Court.

6. Heard the learned counsel for the appellants and the learned counsel appearing on behalf of the first respondent and perused the materials available on record.



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7. In the present case, the Tribunal has taken a sum of Rs.16,526/- as monthly income of the deceased and awarded the compensation towards “loss of dependency” to the appellants. On perusal of documents, it appears that the deceased was in regular employment and in view of the judgement of **Pranay Sathi** cited supra, 50% has to be added towards “future prospects”. Thus, the total monthly income of the deceased is quantified along with future prospects (Rs.16,526+Rs.8,263) at Rs.24,789/- per month. Since the deceased was a bachelor and aged 23 years at the time of the accident, 50% has to be deducted towards his personal and living expenses and thereby, by adopting multiplier of 18 and fixing the monthly income of Rs.12,395/- per month and the loss of income to the family is arrived at Rs.12,395/-x12x18 = Rs.26,77,320/-, which is worked out as follows:-

<i>Loss of Income</i>	<i>Amount in Rs.</i>
Notional income (Per month)	16,526
Add: Future Prospects (Rs.16,526 x 50%) (Per month)	8,263
	24,789
Less: Personal expenses (50%) (Rs.24,789/- x 1/2) (Per month)	12,395
Notional income (per annum) (Rs.12,395/- x 12)	1,48,740
Multiplier	18
Total	26,77,320/-

8. Consequently, the sum of **Rs.24,98,688/-** awarded by the Tribunal under the head of 'Loss of Dependency' is hereby modified and enhanced to



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Rs.26,77,320/-. Further, this Court finds that the Tribunal has failed to award any amount towards “loss of love and affection”, hence, this Court is inclined to award a sum of Rs.20,000/- under the said head.

9. Insofar as the compensation awarded by the Tribunal under other heads is concerned, this Court finds the same is just and proper and the same is hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as under :-

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of Dependency	24,98,688/-	26,77,320/- (enhanced)
Loss of consortium	80,000/-	80,000/-
Loss of love and affection	Nil	20,000/- (awarded)
Funeral expenses	15,000/-	15,000/-
Loss of estate	15,000/-	15,000/-
Transportation charges	5,000/-	5,000/-
Total (Rounded off)	26,14,000/-	28,12,320/-

10. Consequently, the total compensation amount of **Rs.26,14,000/-** awarded by the Tribunal is hereby modified and enhanced to **Rs.28,12,320/-** which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit. Out of total compensation availed to the appellants; the first appellant, the father and mother of the deceased are entitled



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to a sum of Rs.12,00,000/- each together with proportionate interest; the third appellant, the sister of the deceased is entitled to a sum of Rs.4,12,320/- together with proportionate interest.

11. In the result, the Civil Miscellaneous Appeal filed by the appellants/claimants is partly allowed on the following terms:-

(i) The first respondent, Insurance Company is directed to deposit the entire amount awarded by this Court along with interest at the rate of 7.5 % p.a. and costs before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, after deducting the amount already deposited, if any.

(ii) On such deposit being made by the first respondent/Insurance Company, the Tribunal shall transfer the amount directly to the claimants' respective bank accounts through RTGS within a period of three weeks thereon.

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(iii) The appellants/claimants are entitled to withdraw the entire award amount, less the amount already withdrawn, if any, by making necessary application before the Tribunal.



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iv) The appellants/claimants are directed to pay the court fee for the enhanced compensation, if any.

v) There shall be no order as to costs.

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Index : Yes / No

NCC : Yes / No

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To

1. The Motor Accident Claims Tribunal,
Special Sub Court-I, Chennai.

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

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