



WEB COPY



C.M.A.No.1112 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1112 of 2020

1.M.Annandhi
2.M.Nithiga (Minor)
3.M.Anushka (Minor)
4.R.Periyasami

Minors 2 and 3 are
Rep. by their Mother
Annandhi

... Appellants

Vs.

1.D.Praveena
2.Royal Sundaram Alliance
Insurance Company Limited,
2nd Floor, Subramanya Building,
Opposite to Spencer Tower,
No.1, Club House Road,
Chennai.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal by enhancing the award amount passed by the MACT III Additional District and Sessions Judge, Cuddalore at Vridhachalam in M.C.O.P.No.398 of 2017 dated 08.04.2019 and allow the appeal with cost throughout.



WEB COPY



C.M.A.No.1112 of 2020

For Appellants : Mr.S.Udayakumar
For Respondents : R1 – Unclaimed
Mr.G.Vasudevan for R2

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.398 of 2017 dated 08.04.2019 on the file of the Motor Accidents Claims Tribunal III Additional District and Sessions Judge, Cuddalore at Vridhachalam.

2.The learned counsel appearing for the appellants submitted that on 06.06.2017 at about 18.00 hours, the deceased Manikandan was riding a motor cycle towards Vridhachalam from Periyasiruvathur Village near Prime School. At that time, the driver of the car bearing Registration No.KA-53-N-0484 drove the vehicle in a rash and negligent manner and dashed against the motorcycle, due to which, he died on the spot.

3.The learned counsel appearing for the appellants further submitted that thereafter, the wife, daughters and father of the deceased Manikandan/ appellants/ claimants filed claim petition before



C.M.A.No.1112 of 2020

the Motor Accidents Claims Tribunal, claiming a sum of Rs.50 Lakhs as compensation for the death of Manikandan. After adjudication, the Tribunal awarded a sum of Rs.19,49,400/- as compensation along with interest at the rate of 7.5% per annum from the date of petition till the date of realization. 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 P.W.3 – owner of the mess in which the deceased worked, in his evidence stated that the deceased worked as Master in his mess and was earning a sum of Rs.21,000/- per month, however, the Tribunal fixed the notional monthly income of the deceased as Rs.9,000/- per month and awarded a meagre compensation to the claimants and hence, the appellants are entitled for enhanced compensation.

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.



C.M.A.No.1112 of 2020

WEB COPY

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for 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 aspect.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.18,14,400/- for loss of income, Rs.40,000/- for loss of consortium to the first appellant, Rs.60,000/- for loss of love and affection to the appellants 2 to 4, Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses, Rs.5,000/- for transportation expenses and arrived at a total compensation of Rs.19,49,400/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

9.Though P.W.3 in his evidence has stated that the deceased was earning a sum of Rs.21,000/- per month, no proof for income of



C.M.A.No.1112 of 2020

the deceased has been filed. Hence, this Court fix a sum of Rs.15,000/- as the monthly notional income of the deceased. The Tribunal has rightly awarded 40% of income towards future prospects and has rightly deducted $\frac{1}{4}$ of the amount towards personal expenses and has rightly adopted the multiplier 16. Hence, the amount awarded for loss of income works out to Rs.30,24,000/- [Rs.15,000/- X 40% = Rs.6,000/-; Rs.15,000/- + Rs.6,000/- = Rs.21,000/-; Rs.21,000 X 25% = Rs.5,250/-; Rs.21,000/- - Rs.5,250/- = Rs.15,750/-; Rs.15,750/- X 12 X 16 = Rs.30,24,000/-].

10.The amount awarded under the heads loss of consortium to the first appellant, loss of estate and funeral expenses, in the opinion of this Court are just and reasonable and the same are confirmed. The amount awarded under the head loss of love and affection to the appellants 2 to 4, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded for loss of love and affection to the appellants 2 to 4 is enhanced to Rs.1,20,000/- [each Rs.40,000/-] from Rs.60,000/-. The amount awarded under the head transportation expenses, in the opinion of this Court is not necessary and the same is deleted.



C.M.A.No.1112 of 2020

11. 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.18,14,400/-	Rs.30,24,000/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
3.	Loss of consortium to the first appellant	Rs. 40,000/-	Rs. 40,000/-
4.	Loss of love and affection to the appellants 2 to 4	Rs. 60,000/-	Rs. 1,20,000/-
5.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
6.	Transportation expenses	Rs. 5,000/-	---
	Total	Rs.19,49,400/-	Rs.32,14,000/-

12. The appellants/ claimants are entitled to total compensation of Rs.32,14,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization, out of which, the appellants 1 to 3 are entitled to 30% each of the award amount and the fourth appellant is entitled to 10% of the award amount.

13. The civil miscellaneous appeal is partly allowed. The judgment and decree passed in M.C.O.P.No.398 of 2017 dated 08.04.2019 by the Motor Accidents Claims Tribunal III Additional District and Sessions Judge, Cuddalore at Vridhachalam, is modified to the above extent.



C.M.A.No.1112 of 2020

WEB COPY

14.The second 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 judgment. On such deposit being made, the appellants 1 and 4 are permitted to withdraw their respective shares as apportioned by this Court, 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 2 and 3 are permitted to withdraw their shares as apportioned by this Court, 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 and 3 are still minors, their shares shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until they attain majority and the interest derived from out of the said share of the minors shall be paid to the first claimant/ mother every quarter to be utilized for the welfare of the said minors.

15.The appellants/ claimants shall not be entitled to any interest



C.M.A.No.1112 of 2020

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 Accidents Claims Tribunal III Additional District and Sessions Judge, Cuddalore at Vridhachalam, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

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

04.11.2024

pri

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

To

1.The Motor Accidents Claims Tribunal
III Additional District and Sessions Judge,
Cuddalore at Vridhachalam.



WEB COPY



C.M.A.No.1112 of 2020

M.DHANDAPANI,J.
pri

C.M.A.No.1112 of 2020

04.11.2024