



C.M.A.No.3363 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **20.12.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.3363 of 2024

1.R.Krishnan
2.Selvi
3.K.Raju
4.Palaniammal
5.Amuthavalli

... Appellants

Vs.

1.B.Kumar

2.United India Insurance Company Limited,
No.134, Greams Road,
Silingi Building,
Chennai – 600 006.

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 06.01.2023 made in M.C.O.P.No.419 of 2020 on the file of Motor Accident Claims Tribunal (Chief Judge, Court of Small Causes), Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : Notice dispense with [R1]
Dr.C.Paranthaman [R2]



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JUDGMENT

The claimants are before this Court seeking an enhancement of the award passed by the Motor Accident Claims Tribunal (Chief Judge, Court of Small Causes), Chennai in M.C.O.P.No.419 of 2020, dated 06.01.2023.

2. In view of the judgment, which is going to be passed in this appeal, notice to the 1st respondent is dispensed with.

3. The appellants/claimants are the husband, daughters and son of the deceased Alamelu. On 4.12.2019 at about 3.30 hours when the deceased was crossing the Arumbakkam 100 feet road adjacent to the junction of Vinayagapuram Road, near Valluvan hotel, Chennai – 600 106, from east to west direction, a care bearing Regn.No.TN-02-BE-3178, which was owned by the 1st respondent and insured by the 2nd respondent, which came from north to south direction driven in a rash and negligent manner, knocked down the pedestrian, due to the impact, the deceased sustained multiple injuries, admitted in hospital and died on the same day. Therefore, the



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claimants have filed a claim petition claiming compensation of Rs.15,00,000/- before the Tribunal in M.C.O.P.No.419 of 2020 for the death of the deceased.

4. Before the Tribunal, the claimants examined two witnesses viz., P.W.1 and P.W.2 and marked 20 documents viz., Ex.P.1 to Ex.P.20. On the side of the 2nd respondent, they have examined one witness, viz., R.W.1 and marked one document viz., Ex.R.1. After adjudication, the Tribunal partly allowed the petition and awarded a sum of Rs.6,08,000/- as compensation to the claimants. Not satisfied with the same, the appellants/claimants have filed the present appeal seeking enhancement of compensation.

5. Learned counsel appearing for the appellants submitted that, though the deceased earning a sum of Rs.800/- per day, however, the Tribunal fixed a sum of Rs.9,000/- as monthly income, which is on the lower side and the same requires to be reconsidered by this Court. He further submitted that the compensation awarded by the Tribunal under the other heads is also on the lower side, which also requires to be re-



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considered by this Court. Accordingly, he prays for appropriate enhancement in favour of the appellants.

6. Per contra, the learned counsel appearing for the second respondent/Insurance Company submitted that, by considering all the oral and documentary evidence, the Tribunal has awarded just and reasonable compensation under various heads, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

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

8. The factum and manner of the accident is not in dispute. Therefore, this Court is not entering into the said aspect. The only grievance of the claimants is with regard to the quantum of compensation awarded by the Tribunal. To compute the income under the head loss of income, no document in support of proof of the income of the deceased has been filed.



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However, it is claimed by the claimants that at the time of accident, the deceased was a wholesale curry leaf vendor and earned a sum of Rs.800/- per day. As per the decision of the Hon'ble Apex Court in the case of ***Syed Sadiq Vs. United India Insurance Company*** reported in **2014 (1) TANMAC 459**, notional income of a vegetable vendor is fixed at Rs.6,500/- where income of the deceased is not proved through documentary evidence. However, the Tribunal had fixed a sum of Rs.9,000/- as notional income, which is on the lower side since the accident had occurred in the year 2019. Hence, by applying the ratio laid down by the Hon'ble Supreme Court in *Syed Sadiq's* case, fixing a notional income of Rs.15,000/- and no future prospects can be added, since the deceased is aged above 60 years at the time of accident, as has been held by the Constitution Bench in the case of ***National Insurance Company Limited Vs. Pranay sethi and others*** reported in **2017 (16) Supreme Court Cases 680**, the total income per month is quantified at Rs.15,000/-. Deducting 1/4th towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.11,250/- per month and the deceased being aged about 64 years, as evidenced from the records, adopting the multiplier of 7 as fixed by the



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Apex Court in the case of *Sarla Verma and Ors. v. DTC & Ors.* reported in

WEB CO (2009) 6 SCC 121, the loss of income to the family is arrived at Rs.11,250/-

* 12 * 7 = Rs.9,45,000/-, which is worked out as follows :-

Loss of Income	Amount in Rs.
Notional income (Per month)	15,000
Less: Personal expenses (1/4 th) (Rs.15,000/- x 1/4 th) (Per month)	3,750
	11,250
Notional income (per annum) (Rs.11,250/- x 12)	1,35,000
Multiplier	7
Total	9,45,000

9. Further, the Tribunal had awarded a sum of Rs.15,000/- towards loss of estate; Rs.2,00,000/- towards loss of consortium and Rs.15,000/- towards funeral expenses. This Court finds that the compensation awarded under the said heads are just and reasonable and the same is confirmed.

10. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-



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Heads	Awarded by the Tribunal (Amount in Rs.)	Awarded by this Court (Amount in Rs.)
Loss of Income/Dependency	3,78,000/-	9,45,000/- (enhanced)
Loss of Estate	15,000/-	15,000/-
Loss of Consortium (Rs.40,000/- x 5)	2,00,000/-	2,00,000/-
Funeral Expenses	15,000/-	15,000/-
Total	6,08,000/-	11,75,000/-

11. Accordingly, the Civil Miscellaneous Appeal is partly allowed and the impugned Award of the Tribunal is modified, enhancing the compensation amount from **Rs.6,08,000/-** to **Rs.11,75,000/-**. The second respondent-Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.419 of 2020 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of six (6) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the share of the appellants as per the apportionment made by the Tribunal, directly to the



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bank account of the appellants/claimants through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellants/claimants. The appellants/claimants are directed to pay necessary additional Court fee on the enhanced compensation amount. It is made clear that the appellants/claimants will not be entitled to any interest for the delay period. No costs.

20.12.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes / No

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To

The Motor Accident Claims Tribunal, (Chief Judge, Court of Small Causes),
Chennai.



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M.DHANDAPANI,J.,

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