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C.M.A.No.64 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.64 of 2023

1.Savithiri

2.Lakshmi

3.Murugan

.. Appellants

Vs.

1.G.Ramesh

(R1 remained exparte before the Tribunal.
His presence is dispensed with)

2.The New India Assurance Co. Ltd.,

Motor Third Party Claims,

No.232, Bombay Mutual Building,

6th Floor, N.S.C.Bose Road, Chennai – 600 001.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the award against the judgment and decree dated 18.11.2021 made in M.C.O.P.No.942 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court No.2, Motor Accidents Claims Petitions, Small Causes Court, Chennai.

For Appellants : Mrs.M.Malar

For R2 : Mrs.R.Sreevidhya



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JUDGMENT

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2.The claimants are the wife, daughter and son of the deceased Duraivel. The case of the claimants is that on 13.12.2017, the deceased was trying to cross the road near Sivan Kovil, Urapakkam and at about 06.30 PM, the offending vehicle which is a car was proceeding from Tambaram towards Chengalpattu in a rash and negligent manner and it dashed on the deceased resulting in grievous injuries. Unfortunately, the deceased succumbed to the injuries. It is under these circumstances, the 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 the rash and negligent driving of the offending vehicle. Having reached such a



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finding, the Tribunal fixed the total compensation at Rs.9,42,000/- under

various heads as follow:

1.Total loss of Dependency	-	Rs.7,92,000/-
2.Loss of Consortium	-	Rs.1,20,000/-
3.Loss of Estate	-	Rs.15,000/-
4.Funeral Expenses	-	Rs.15,000/-
Total		Rs.9,42,000/-

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.

6.Heard the learned counsel for the appellants and the learned counsel for the 2nd respondent.

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



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

9.The main grievance of the appellants is with respect to the notional monthly income that was fixed by the Tribunal. The appellants came up with a claim that the deceased was working as a Security Guard at Buhari Hotel and he was earning a sum of Rs.20,000/- per month. There was no material before the Tribunal to substantiate the avocation of the deceased and also the monthly income earned by him. Therefore, the Tribunal fixed the notional monthly income at Rs.10,000/-.

10.Considering the fact that the accident had taken place in the year 2017 and also the fact that the deceased is said to have been working as a Security Guard, this Court is inclined to fix the notional monthly income at Rs.12,500/-. 10% future prospects should be added considering the fact that the deceased was aged about 60 years. The total loss of dependency is calculated as follows:

Monthly income fixed	:	Rs.12,500/-
Future prospects to be added	:	10%



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Notional Income arrived at	:	Rs.12,500/- + 10% Rs.13,750/-
After deducting 2/3 rd for personal expenses	:	Rs.9,167
Multiplier to be adopted	:	9
Loss of Dependency Rs.9,167/- X 12 X 9	:	Rs.9,90,036/-

11.The compensation that was granted under the other heads are reasonable and it does not require the interference of this Court.

12.In the light of the above discussions, the compensation awarded by the Tribunal is modified as follows:

1.Loss of Dependency	-	Rs.9,90,036/-
2.Loss of Consortium	-	Rs.1,20,000/-
3.Loss of Estate	-	Rs.15,000/-
4.Funeral Expenses	-	Rs.15,000/-
Total		----- Rs.11,40,036/- -----

13.The compensation awarded by the Tribunal at Rs.9,42,000/- is



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hereby enhanced to Rs.11,40,036/-. 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 weeks from the date of receipt of this judgment, if not already deposited. Insofar as the enhanced compensation of Rs.1,98,036/- is concerned, the appellants / claimants will not be entitled for interest for the period of delay of 247 days in paying the deficit Court fee. 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.

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

21.06.2024

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



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To

- 1.The Special Subordinate Judge No.2,
Motor Accident Claims Tribunal,
Special Sub Court No.2,
Small Causes Court,
Chennai.
- 2.The Section Officer,
VR Section,
Madras High Court,
Chennai.



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N.ANAND VENKATESH, J.

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