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C.M.A.No.1352 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM :

THE HON'BLE Mr. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1352 of 2021

1.Narayanamma

2.Nagarathina

3.Roopa

... Appellants

Versus

1.P.Manjunath

2.The Branch Manager,

Shriram General Insurance Company Ltd.,

Branch Office, No.122/2B, 2nd Floor,

B.R. Towers Opposite to CSI Church,

Denkanikottai Road, Hosur – 635109.

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount made in Judgment and Decree dated 20.12.2019 in M.C.O.P.No.209 of 2018 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

For Appellants : Mr. S. P. Yuaraj

For Respondents : Mrs. R. Sreevidhya (for R2)
: No Appearance (for R1)



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JUDGMENT

The claimants/petitioners before the Tribunal are the appellants herein, seeking enhancement of compensation.

2. For the sake of convenience, the parties are referred to as per their litigative status in the claim petition.

3. The brief facts of the case is that on 26.03.2016, at about 13.30 hours, while the deceased/V.Parthesh was proceeding his two wheeler bearing Registration No.TN-70-F-7426 towards Berigai side in Karnapalli to Sinthaladhoddi Road, near the lands of one Mr. Mohan, Advocate, from Bangalore. The driver of an unregistered Mahindra Tractor, bearing Engine No.NKZB00189, which was owned by the first respondent and insured with the second respondent, drove in the same direction in a rash and negligent manner. Though the deceased put the hand signal, without taking note of it, the driver of the Tractor suddenly turned on right side, hit the motorcycle of the deceased, due to which, the deceased fell down on the road, and the Tractor ran over the body of the



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deceased, and the deceased succumbed to the injuries on the spot. A case was also registered in Crime No.153 of 2016 as against the driver of the Tractor for the offence under Sections 279 and 304(A) of IPC. Hence, the claimants, who are mother and sisters of the deceased filed a claim petition, claiming a sum of Rs.25 Lakhs as compensation for the death of the deceased/Mr.V.Parthesh.

4. Before the Tribunal, the first respondent/owner of the offending vehicle was set *ex-parte*.

5. In order to substantiate the case of the claimants/petitioners, on the side of the claimants, two witnesses were examined as P.W.1 and P.W.2 and twelve documents were marked as Exs.P1 to P12. No oral or documentary evidence was let in, on the side of the respondents.

6. Upon considering the oral and documentary evidence placed, the Tribunal held that the respondents 1 and 2 are jointly and severally liable to pay a sum of Rs.12,74,600/- as compensation to the



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claimants/petitioners.

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7. The first claimant/petitioner is a widow mother of the deceased. The second and third petitioners are sisters of the deceased. The deceased was aged about 20 years at the time of accident. The appellant/claimant, not being satisfied with the award amount granted by the Tribunal, have come forward with the present appeal seeking enhancement of compensation.

8. On the point of quantum, I have heard the submissions made on either side and perused the material available on records. The factum of the accident was not disputed by the respondents.

9. Taking into consideration Ex.P1/First Information Report, Ex.P2/Post Mortem Certificate, and Ex.P12/Legal Heir Certificate, and on the date of accident on 26.03.2016, the deceased was a bachelor, aged about 20 years, multiplier “18” is applied as per ***Sarla Varma*** case. Considering the age of the deceased, and the accident is of the year 2016,



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and taking into consideration of law laid down by the off-quoted Judgment of the Hon'ble Supreme Court of India, on this point, the notional income of the deceased is hereby fixed as Rs.12,000/- per month and for future prospects, 40% has to be added to the income. Accordingly, the income is arrived at Rs.16,800/- (Rs.12000+4800 [12000 x 40%]). After adopting the multiplier of “18”, the income is arrived at Rs.36,28,800/- (Rs.16800 x 12 x 18). Since the deceased was a bachelor, 50% of deduction has to be made and the same is arrived at Rs.18,14,400/- (Rs.36,28,800 x 50%) and accordingly, a sum of Rs.18,14,400/- is fixed as loss of dependency.

10. The compensation awarded by the Tribunal towards loss of love and affection is very meagre. The mother lost her son at young age and hence, the compensation towards loss of love and affection has to be enhanced. Hence, a sum of Rs.40,000/- is awarded for Loss of filial consortium to the first petitioner/claimant and a sum of Rs.75,000/- each are hereby granted towards Loss of Love and Affection to the second and third petitioners. The Tribunal awarded Rs.15,000/- towards funeral



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expenses, and the same is hereby confirmed. The compensation towards Loss of Estate and Transportation are hereby awarded at Rs.15,000/- each. Thus, the break-up details of the modified and enhanced total compensation is hereunder:-

Heads under which the amount is awarded	Amount awarded by the Tribunal	Amount awarded by this Court	Enhanced/granted/modified/Confirmed
Loss of Dependency	Rs.12,09,600/-	Rs.18,14,400/-	Enhanced
Loss of Estate	Rs.20,000/-	Rs.15,000/-	Modified
Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
For Transportation	-	Rs.15,000/-	Granted
Love and Affection	Rs.30,000/-	Rs.1,50,000/- (for 2 nd & 3 rd petitioner/claimants)	Enhanced
Loss of Filial Consortium	-	Rs.40,000/-	Granted
Total	Rs.12,74,600/-	Rs.20,49,400/-	Enhanced

11. With the above enhancement, this Civil Miscellaneous Appeal is partly allowed. The respondents 1 and 2 are directed to deposit the amount awarded by this Court at Rs.20,49,400/- along with interest at



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the rate of 7.5% per annum from the date of filing the petition till the date of deposit, less the amount already deposited, if any. On such deposit, the petitioners/claimants shall withdraw their respective share as apportioned before the Tribunal along with interest stated thereon and less the amount already withdrawn by them, if any. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

20.03.2024

Index :Yes/No
Speaking Order :Yes/No
Neutral Citation Case : Yes/No

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To

- 1.The Motor Accident Claims Tribunal,
Special District Court, Krishnagiri.
- 2.The Section Officer,
V.R. Section, High Court, Madras – 104.



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RMT.TEEKA RAMAN, J.

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