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C.M.A.No.1773 of 20__



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.1773 of 2022

1. S.Kala
2. Lakshmiammal
(Died as per Memo dated 05.01.2024) .. Appellants

Vs.

1.Vikram
2. National Insurance Co. Ltd.,
T.P.Cell, 3rd Floor, No.751,
Annasalai,
Chennai-600002. .. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.02.2018 made in M.A.C.T.O.P.No.959 of 2014 on the file of the Motor Accident Claims Tribunal (II Court of Small Causes), Chennai.

For Appellant : Mr.K.V.Muthu Visakan

For Respondents :
(R1) Exparte before Tribunal
(R2) Ms.R.Sreevidhya



J U D G M E N T

WEB COPY This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 12.02.2018 made in M.A.C.T.O.P.No.959 of 2014 on the file of the Motor Accident Claims Tribunal (II Court of Small Causes), Chennai.

2.The appellants are the claimants in M.A.C.T.O.P.No.959 of 2014 on the file of *Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai*. They filed the above said claim petition, claiming a sum of **Rs.40,00,000/-** as compensation for the death of one Selvam @ Selvaraj, who died in the accident that took place on 09.12.2012.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of **Rs.10,35,000/-** as compensation to the appellants.

4.Not being satisfied with the amounts awarded by the Tribunal, the



appellants have come out with the present appeal seeking enhancement of compensation.

5. Today, when the matter was taken up for hearing, the learned counsel for the appellants submitted that the 2nd appellant viz., Mrs.Lakshmiammal, who is the mother the deceased, passed away on 08.03.2023. He has also filed a Memo dated 05.01.2024 to that effect. The said Memo is recorded.

6.The learned counsel appearing for the appellants contended that the deceased (Selvam @ Selvaraj) was doing baral business and was earning a sum of Rs.30,000/- per month, but the Tribunal has fixed only a sum of Rs.7,000/- as monthly income of the deceased and awarded less compensation towards Loss of Income . He further submitted that the Tribunal ought to have awarded compensation towards Loss of Estate and Transportation and that apart the amounts awarded by the Tribunal towards other heads are also very meagre and therefore prayed for enhancement of compensation.

7.Per contra, learned counsel appearing for the 2nd respondent-



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Insurance Company contended that since the appellants have not filed any documentary evidence in order to prove that the deceased was earning a sum of Rs.30,000/- per month, the Tribunal has fixed the notional monthly income of the deceased at Rs.7,000/- and the same is reasonable and that apart the total compensation awarded by the Tribunal under various heads is not meagre. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

8. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent-Insurance Company and perused the entire materials on record.

9. It is the case of the appellants that at the time of accident the deceased was aged 40 years, doing baral business and was earning a sum of Rs.30,000/- per month. But no documents have been filed to that effect. This Court taking note of the fact that the accident is of the year 2018 and the deceased was only 40 years at the time of accident and as the cost of living has increased enormously and salary of even unskilled workers has increased substantially, is of the view that a sum of Rs.12,000/- per month can be fixed



as notional income of the deceased and the same was also agreed by the learned counsel for the 2nd Respondent.

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10. Accordingly, a sum of Rs.12,000/- is fixed as notional income of the deceased and by adding future prospects @ 25% and by deducting 1/3 rd towards personal expenses and by adopting multiplier '14' as per Judgment of the Hon'ble Supreme Court in the case of **SARLA VERMA AND OTHERS VS. DELHI TRANSPORT CORPORATION AND ANOTHER** reported in **(2009) 4 MLJ 997** the compensation awarded by the Tribunal towards Loss of Income is modified to Rs.16,80,000/- {(Rs.12000+3000(25% future prospects)=15,000-5000 (1/3 personal expenses) = 10000x12x14(multiplier 14)}. This Court considering the age and avocation of the deceased is of the view that a sum of Rs.15,000/- towards Loss of Estate and since no compensation was awarded towards Transporation a sum of Rs.10,000/- is awarded towards Transporation. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed.

11. The compensation awarded by the Tribunal is modified as follows:



S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income	9,79,944/-	16,80,000/-	Enhanced
2.	Loss of Estate	NIL	15,000/-	Granted
3.	Transporation	NIL	10,000/-	Granted
4.	Consortium	40,000/-	40,000/-	Confirmed
5.	Funeral Expenses	15,000/-	15,000/-	Confirmed
	Total	Rs.10,34,944/- Rounded off to Rs.10,35,000/-	Rs.17,60,000/-	Enhanced by Rs.7,25,000 /-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,35,000/- is hereby enhanced to Rs.17,60,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. As the 2nd Appellant passed away, the 1st Appellant/1st Claimant alone is entitled for total compensation. The 2nd respondent-Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of *six weeks* from the date of receipt of a copy of this judgment to the credit of **M.A.C.T.O.P.No.959 of 2014** on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai . On such deposit being made,



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the Tribunal is directed to transfer the Award amount, directly to the Bank account of the 1st Appellant/Claimant through RTGS, within a period of **three weeks**. The 1st appellant/1st claimant shall pay necessary Court fee, if any, on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

05.01.2024

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Index : Yes / No
Internet : Yes / No



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To

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- 1.The National Insurance Co. Ltd.,
T.P.Cell, 3rd Floor, No.751,
Annasalai,
Chennai-600002.
2. The Motor Accident Claims Tribunal,
(II Court of Small Causes), Chennai.
- 3.The Section Officer,
VR Section,
High Court,
Madras.

KRISHNAN RAMASAMY, J.



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