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CMA No.3100 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM :

DATED: 07.02.2024

THE HONOURABLE **MR.JUSTICE RMT.TEEKAA RAMAN**

C.M.A.No.3100 of 2021

1.S.Raghuna Devi
2.Minor R.Sadhana
3.Minor R.Lathika
4.Minor R.Sweatha
(Minors 2 to 4 represented by their mother and guardian
next friend S.Reghuna Devi) ... Appellants/Claimants

Vs.

1.S.Jeeva
(since 1st respondent remained ex-parte before the
Tribunal hence his presence may be dispensed with)
2.The Magma HDI General Insurance Company Limited,
No.17/19, 'B' Block,
3A, Nelson Manickam Road,
Chennai - 600 029. ... Respondents /Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the Judgement and decree dated
17.12.2019 made in M.A.C.T.O.P.No.136 of 2017, on the file of the Motor
Accidents Claims Tribunal, (Special District Court), Thiruvallur.



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For Appellant : Mr.F.Terry Chella Raja

For R1 : Set ex-parte before the Tribunal

For R2 : No appearance

JUDGMENT

The claim petitioners who are the appellants herein have filed this appeal seeking enhancement of compensation awarded in M.C.O.P.No.136 of 2017 on the file of the Motor Accident Claims Tribunal Judge /Special District Court, Thiruvallur.

2. For the sake of convenience, the parties are referred to as per their litigating status before the trial Court.

3. The claim petitioners / appellants filed the claim petition seeking compensation for the death of one Suresh Kumar in the road transport accident on 24.09.2017.

4. The factum of accident, manner of accident, rash and negligent on the part of the driver of the offending vehicle and vehicle being insured with the second respondent/Insurance company are not in dispute.



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Accordingly, the finding rendered by the Trial Court with regard to negligence are hereby confirmed.

5. The first claim petitioner is the wife of the deceased Suresh Kumar. As per the post mortem certificate, the deceased was aged about 36 years at the time of accident and the same is also found to be corroborated as per Ex.P8 - Aadhar card. Accordingly, the age of the deceased at the time of accident is fixed as 36 years. As per **[Sarala Verma and Others. Vs. Delhi Transport Corporation and another] case**, the multiplier applicable is 15. The deceased was working as a van Driver and he was earning a sum of Rs.15,000/- per month.

6. The Insurance Company filed a counter statement alleging that the quantum is excessive.

7. As per Ex.P9 Aadhar card, the deceased date of birth is 01.04.1980. The Tribunal has taken age of the deceased at the time of the accident as '37'. Taking into consideration the number of dependants, as per sarala verma's case (cited supra), 1/4th has to be deducted towards personal expenses of the deceased. The date of the accident being 24.09.2017, I am inclined to fix the notional income of the deceased as Rs.13,000/-



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8. Taking into consideration the age and place of avocation said to

have been taken by the deceased as a driver and accordingly the pecuniary loss sustained by the claim petitioner is re-assessed as follows:-

$13000 \times 40\% \text{ of future prospectus} \times 12 \times 17 \times \frac{3}{4} = \text{Rs. } 19,94,200/-$

9. Taking into consideration the fact that the first claimant is the widow of the deceased, she is entitled for Rs.40,000/- towards loss of consortium, as awarded by the Tribunal, is hereby confirmed.

10. The claimants 2 to 4 are entitled for loss of love and affection at Rs.75,000/-each.

11. The Tribunal has not awarded any amount towards transportation charges and the same is hereby awarded at Rs.15,000/-.

12. Accordingly, Rs.15,000/- is awarded towards loss of estate.

13. The amount awarded by the Tribunal towards funeral expenses at Rs.15,000/- is hereby confirmed.



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14. The break-up details of the compensation is as under :

<i>Sl. No</i>	<i>Heads under which the amount is awarded</i>	<i>Amount awarded by the Tribunal – Rs.</i>	<i>Amount awarded by this Court – Rs.</i>
1.	Pecuniary loss	18,90,000/-	19,94,200/-
2.	Loss of Estate	15,000/-	15,000/-
3.	Funeral expenses	15,000/-	15,000/-
4.	Loss of consortium	40,000/-	40,000/-
5.	Loss of love and affection	----	2,25,000/-
6.	Transportation charges	-	15,000/-
	Total	21,10,000/-	23,04,200/-

In total, the claim petitioners are entitled to a sum of Rs.23,04,200/-

(Rupees Twenty Three and Four Thousand and Two hundred only)

15. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.21,10,000/- to Rs.23,04,200/- to the extent indicated above, alongwith 7.5% interest per annum. No costs.

(ii) the 2nd Respondent/General Insurance Company Limited is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim petitioners/appellants



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are permitted to withdraw their share of the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, on the basis of apportionment fixed by the Tribunal, by filing necessary application before the Tribunal.

(iv) the claim petitioners/Appellants are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

(v) As far as the share of the minor claimants 2 to 4 are concerned, the same shall be invested in any Nationalised Bank in an interest bearing fixed deposit and the interest thereon shall be withdraw by the first claimant once in three months for the welfare of the minors and the said deposit shall be renewed periodically till they attain majority. Apportionment award amount as ordered by the Tribunal is kept intact.

07.02.2024

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Index : Yes/No

Speaking/Non-speaking order

To

1.The Special District Judge,
Motor Accidents Claims Tribunal, (Special District Court),
Thiruvallur.

Copy to:

The Section Officer,
V.R.Section,High Court, Madras.



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RMT.TEEKAA RAMAN, J.

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Judgment in
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