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C.M.A.No.931 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.931 of 2022

1. Govindammal
2. Dhadhan
3. Pappannan

... Appellants

Vs.

1. K.Patchiappan
2. The Manager,
The United India Insurance Company Limited,
Door No.460/20, 1st Floor (near Jain Kovil),
8th Main Road, 4th Block, Jaya Nagar,
Bangalore Town & District, Karnataka State,
Represented by its Branch Manager,
United India Insurance Company Limited,
1st Floor, No.22, B.R.Sundaram Iyer Street,
Dharmapuri Town,
Dharmapuri Taluk and District.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the award dated 17.03.2021, made in M.C.O.P.No.489 of 2018, on the file of the Motor Accident Claims Tribunal, Special District Court (MACT), Dharmapuri.

For Appellants : Mr.D.Rameshkumar



For R1 : Notice not ready
For R2 : Ms.I.Malar

JUDGEMENT

This Civil Miscellaneous Appeal has been filed, challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Special District Court (MACT), Dharmapuri in M.C.O.P.No.489 of 2018, dated 17.03.2021.

2. On 02.02.2018 at about 6.10 p.m., when the deceased was riding a motorcycle bearing Reg.No.TN 29 BW 0581, towards Palacode, the first respondent's vehicle viz., Ashok Leyland lorry bearing Reg.No.TN 38 AC 2475, came from the opposite direction, driven by its driver in a rash and negligent manner and dashed against the motorcycle, due to which, the deceased sustained serious injuries and died on the spot. Hence, the appellants, being the parents and brother of the deceased, filed a Claim Petition seeking a sum of Rs. 50,00,000/- as compensation.

3. On consideration of oral and documentary evidence, the Tribunal has



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awarded a sum of Rs.12,84,000/- towards compensation to the appellants. Being not satisfied with the same, the appellants have filed the present appeal.

4. The learned counsel for the appellants would submit that, at the time of accident, the deceased was aged about 25 years and was working as a mason and was earning a sum of Rs.20,000/- per month. Without considering the same, the Tribunal had erroneously fixed the notional monthly income of the deceased at Rs.7,500/-, which is very meager, and the same requires to be re-fixed by this Court. Further, he relied upon a decision in the case of *Syed Sadiq Vs. United India Insurance Company*, reported in **2014 (1) TNMAC 459 (SC)**, wherein the Apex Court fixed the notional monthly income even for a vegetable vendor at Rs.6,500/-, who sustained injuries in the accident occurred in the year 2008, by applying the multiplier based on cost inflation index, in the absence of any proof for income, it would come more than a sum of Rs.13,000/-. Hence, he prays that a sum of Rs.14,000/- may be fixed as notional income of the deceased, since the accident occurred in the year 2018. Further, he submitted that the Tribunal has not awarded any amount towards “transportation”, and the same may be awarded by this Court.

5. The learned counsel for the second respondent/Insurance Company



would fairly submit that the notional income of the deceased may be re-determined at a sum of Rs.12,000/- per month, which would be fair and reasonable. The learned counsel for the appellants also agreed for the same.

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

7. The fact and manner of the accident is not disputed by the parties. Therefore, this Court is not dealing with the said aspect. The only grievance of the appellants is with regard to the quantum of compensation awarded by the Tribunal. Taking into consideration of the submission made by the learned counsel for the appellants and the learned counsel for the second respondent, the notional income of the deceased is now fixed at Rs.12,000/- per month. Thus, by fixing the notional income of the deceased at Rs.12,000/- per month; adding future prospects at 40%, as has been held by the Constitution Bench of the Apex Court, the total income per month is quantified at Rs.16,800/-; deducting 50% towards his personal and living expenses of the deceased (as the deceased was a bachelor at the time of the accident); and adopting the multiplier of '18' (since the deceased was aged about 25 years), the compensation towards Loss of Pecuniary is calculated as under:-



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<i>Loss of Income</i>	<i>Amount in Rs.</i>
Notional income (Per month)	12,000
Add: Future Prospects (Rs.12,000 x 40%) (Per month)	4,800
	16,800
Less: Personal expenses (50%) (Rs.16,800/- x 1/2) (Per month)	8,400
Notional income (per annum) (Rs.8,400/- x 12)	1,00,800
Multiplier	18
Total	18,14,400/-

8. Consequently, the sum of **Rs.11,34,000/-** awarded by the Tribunal under the head of “Compensation for Pecuniary Loss” is hereby modified and enhanced to **Rs.18,14,400/-**. Further, this Court finds that the Tribunal has failed to award any compensation under the head of “transportation”. Hence, this Court is inclined to award a sum of Rs.10,000/- towards “transportation”.

9. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds the same to be just and proper and are hereby confirmed.

10. Thus, the total compensation payable to the appellants/claimants under various Heads is modified as hereunder:-



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<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Compensation for pecuniary loss	11,34,000/-	18,14,400/- (enhanced)
Loss of Filial Consortium for petitioners 1 and 2	80,000/-	80,000/-
Funeral expenses	15,000/-	15,000/-
Loss of Estate	15,000/-	15,000/-
Loss of love and affection (to the appellant 3)	40,000/-	40,000/-
Transportation	Nil	10,000/-
Total	12,84,000/-	19,74,400/-

11. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **12,84,000/-** to **19,74,400/-**, which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit, out of which, first appellant, the mother of the deceased is entitled to a sum of **Rs.9,00,000/-** together with proportionate interest; second appellant, father of the deceased is entitled to a sum of **Rs.9,00,000/-** together with proportionate interest, and the third appellant, the brother of the deceased is entitled to a sum of **Rs.1,74,400/-** together with proportionate interest.

12. In the result, this Civil Miscellaneous Appeal filed by the appellants/claimants is partly allowed on the following terms:-



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(i) The second respondent, Insurance Company is directed to deposit the entire amount awarded by this Court along with interest at the rate of 7.5 % p.a., and costs before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, after deducting the amount already deposited, if any.

(ii) On such deposit being made by the second respondent/Insurance Company, the Tribunal shall transfer the amount directly to the claimants' respective bank accounts through RTGS within a period of three weeks thereon.

(iii) The appellants/claimants are entitled to withdraw the entire award amount, less the amount already withdrawn, if any, by making necessary application before the Tribunal.

iv) The appellants/claimants are directed to pay the court fee for the enhanced compensation, if any.

v) There shall be no order as to costs.

15.02.2024

Index : Yes / No
NCC : Yes / No
jd

Krishnan Ramasamy,J.,
jd



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To

1. The Motor Accident Claims Tribunal,
Special District Court, Dharmapuri.
2. The Section Officer,
V.R. Section,
High Court, Madras.

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