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C.M.A.No.1791 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1791 of 2018

- 1.C.Nallasivam
- 2.Minor.Bharani
Rep. by Guardian Father
1st petitioner
- 3.Palaniammal (Died)

(Appeal is dismissed as abated
as against A3 (Died) vide Court
order dated 15.4.24 & 18.6.2024
made in CMA No.1791 of 2018 by AQJ)

4.Arukkanaiammal

... Appellants

Vs.

1.Karuappana Gounder (died)

2.United India Insurance Company Limited,
Micro Office Door No.22B, Shop No.11,
Krishnaveni Complex,
Pallipalayam 638 006.
Namakkal District.

3.K.Kanagaraj
4.E.Valarmathi

(Respondents 3 and 4 brought
on record as LR's of the deceased R1
viz., Karuappana Gounder vide order
dt.6.7.23 made in CMP Nos.13154,
13155 & 13157/23 in CMA
No.1791 of 2018 by KRSJ)

... Respondents



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WEB COPY **Prayer:**

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree passed by the Motor Vehicles Tribunal/ Principal District Judge Namakkal in M.C.O.P.No.769 of 2008 dated 27.04.2018.

For Appellants : Mr.S.Namasivayam
A3 – Disd. as abated
vide order dt.18.6.24.

For Respondents : R1 – Died (steps taken)
Mr.D.Bhaskaran for R2
R3 – NRN (Unclaimed)

J U D G M E N T

This appeal has been filed by the appellants/ claimants against the judgment and decree passed by the Motor Vehicles Tribunal/ Principal District Judge, Namakkal in M.C.O.P.No.769 of 2008 dated 27.04.2018.

2.The learned counsel appearing for the appellants submitted that on 23.05.2008 at about 6.30 p.m., the deceased Padmavathi was going in her Bajaj Platina Bike bearing Registration No.TN 33 AH 2065 on the left side of the Velappampalayam to Sivagiri Road. At that



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time, a tractor with trailer bearing Registration No.TN 33 AD 9284 came in a rash and negligent manner so as to almost touch the vehicle driven by the deceased and hence she applied sudden brake and fell down and she was run over by the tractor with trailer, due to which, she lost her life.

3.The learned counsel appearing for the appellants further submitted that thereafter, the husband, son, mother – in – law and mother of the deceased Padmavathi/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.20 Lakhs as compensation for the death of Padmavathi. After adjudication, the Tribunal awarded a sum of Rs.11,45,200/- as compensation along with interest at the rate of 7.5% per annum from the date of petition till the date of realization with costs and observed that the claimants 1 and 2/ appellants 1 and 2 are entitled to get the total award amount. Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants further submitted that the deceased was working as Supervisor in the Priyam



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Petticoat Showroom and was earning a sum of Rs.8,500/- per month and she was also doing online distributor under R.M.P.Infotec Private Limited and was getting incentives of not less than Rs.10,000/- per month, however, the Tribunal fixed the notional monthly income of the deceased as Rs.6,000/- per month and awarded only a sum of Rs.7,68,000/- for loss of dependency and the amount awarded under the other heads are also very very meagre and hence, the appellants are entitled for enhanced compensation.

5.Per contra, the learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent and perused the materials available on record.

7.The accident and the manner in which the accident happened



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are not disputed. This appeal has been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.7,68,000/- for loss of dependency, Rs.3,07,200/- for future prospects, Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses, Rs.40,000/- for loss of consortium and arrived at a total compensation of Rs.11,45,200/- with interest at the rate of 7.5%p.a. from the date of petition till the date of realization.

9.Perusal of records reveal that the deceased was working as Supervisor in the Priyam Petticoat Showroom and was earning a sum of Rs.8,500/- per month. Hence, this Court fix a sum of Rs.8,500/- as the monthly notional income of the deceased. The appellants 3 and 4 are not the dependents of the deceased. The Tribunal has rightly awarded 40% of income towards future prospects and has rightly deducted 1/3 of the amount towards personal expenses and has rightly adopted the multiplier 16. Hence, the amount awarded for



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loss of dependency works out to Rs.10,88,064/- [$\text{Rs.8,500/-} \times \frac{1}{3} =$

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Rs.2,833/- ; $\text{Rs.8,500/-} - \text{Rs.2,833/-} = \text{Rs.5,667/-}$; $\text{Rs.5,667/-} \times 12 \times 16 = \text{Rs.10,88,064/-}$] and the amount awarded for 40% future prospects works out to Rs.4,35,226/- [$\text{Rs.10,88,064/-} \times 40\% = \text{Rs.4,35,225.6/-}$].

10.The amount awarded under the heads loss of estate and funeral expenses, in the opinion of this Court are just and reasonable and the same are confirmed. This Court is of the opinion that some amount has to be awarded under the head loss of love and affection. Accordingly, this Court awards a sum of Rs.75,000/- for loss of love and affection [$\text{Rs.25,000/-} \times 3$. The Tribunal has not awarded any compensation for the appellants 3 and 4. The third appellant has died. The fourth appellant is the mother of the deceased and hence this Court awards a sum of Rs.25,000/- to the fourth appellant towards love and affection.]. The amount awarded under the head loss of consortium, in the opinion of this Court is high and this Court is inclined to reduce the amount awarded under the said head. Accordingly, the amount awarded under the head loss of consortium is reduced to Rs.25,000/- from Rs.40,000/-.



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11. Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of dependency	Rs.7,68,000/-	Rs.10,88,064/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
3.	Loss of consortium	Rs. 40,000/-	Rs. 25,000/-
4.	Loss of love and affection	---	Rs. 75,000/-
5.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
6.	Future prospects of 40%	Rs. 3,07,200/-	Rs. 4,35,226/-
	Total	Rs.11,45,200/-	Rs.16,53,290/-

12. The appellants 1, 2 and 4/ claimants are entitled to total compensation of Rs.16,53,290/-, out of which, the appellants 1, 2 are entitled to a sum of Rs.16,28,290/- and the fourth appellant is entitled to a sum of Rs.25,000/-, along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

13. The civil miscellaneous appeal is partly allowed. The judgment and decree passed by the Motor Vehicles Tribunal/ Principal District Judge, Namakkal in M.C.O.P.No.769 of 2008 dated 27.04.2018, is modified to the above extent.



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14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first appellant is permitted to withdraw his share as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The fourth appellant is permitted to withdraw a sum of Rs.25,000/-, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal. The second appellant is permitted to withdraw his share as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to their majority. If the second appellant is still minor, his share shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until he attain majority and the interest derived from out of the said share of the minor shall be paid to the first claimant/ father every quarter to be utilized for the welfare of the



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said minor.

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15.The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Vehicles Tribunal/ Principal District Judge Namakkal, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

16.The civil miscellaneous appeal is partly allowed. No costs.

12.11.2024

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Vehicles Tribunal/
Principal District Judge Namakkal.



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M.DHANDAPANI,J.
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