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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.1546 & 1872 of 2021

and C.M.P.No.8093 of 2021

C.M.A.No.1546 of 2021

Velayutham

...Appellant

Vs.

1.Amsa

2.Rasukutti

3.Radha

ChinnaGounder (Died)

KaveriAmmal (Died)

4.The District Forest Officer,

Dharmapuri Division,

Dharmapuri – 636 705,

Dharmapuri – District.

...Respondents

C.M.A.No.1872 of 2021

1.Amsa

2.Minor.Rasukutty

3.Minor.Radha

*(Minor appellants 2 & 3 are rep. by
their guardian mother 1st appellant herein)*

4.Chinnagounder (died)



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5.Kaveriammal (died)

...Appellants

Vs.

1.Velayutham

2.District Forest Officer,

Dharmapuri Circle,

Dharmapuri – 636 705.

...Respondents

Common Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 04.12.2019 made in M.C.O.P.No.2848 of 2015 on the file of the Motor Accidents Claims Tribunal/1st Additional District and Sessions Court, Salem, Salem District.

For Appellant

in CMA No.1546/2021 : Mr.M.R.Jothimanian

For Respondents

in CMA No.1546/2021 : Mr.S.P.Yuvaraj for R1 to R3

Mr.D.Gopal for R4

Government Advocate

For Appellant

in CMA No.1872/2021 : Mr.S.P.Yuvaraj

For Respondents

in CMA No.1872/2021 : Mr.M.R.Jothimanian for R1

Mr.D.Gopal for R2

Government Advocate



COMMON JUDGMENT

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These appeals have been filed challenging the judgment and decree passed by the Motor Accidents Claims Tribunal/1st Additional District and Sessions Court, Salem, Salem District in M.C.O.P.No.2848 of 2015 dated 04.12.2019.

2.Since the parties and the issues are one and the same, these appeals are disposed of by a common judgment.

3.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

4.C.M.A.No.1546 of 2021 is filed by the appellant with regard to negligent. C.M.A.No.1872 of 2021 is filed by the claimants seeking enhancement of compensation.

5.The brief facts of the case are as follows:

On 28.09.2015 at about 12.00 hours, the deceased was riding a Hero Honda Splendor Plus motorcycle bearing Registration No.TN 30 BZ 5073 on Salem to Dharmapuri National Highway Road, at the time,



the first respondent's Bolero Car bearing Registration No.TN 29 G 0753

came on the same direction driven by its driver dashed the motorcycle in which the deceased was travelled and caused the accident and the deceased sustained fractures and grievous injuries on the vital parts of the body and he was admitted in Manipur hospital, Salem and he died at 14.50 hours. A criminal case was registered in Crime No.539/2015 for offence under Section 279, 304(A) by Deevattipatty Police. The claimants filed a claim petition before the Tribunal in M.C.O.P.No.2848 of 2015, the Tribunal has awarded a sum of Rs.13,40,456/-. Aggrieved by the same, the present appeals have been filed.

6.Learned counsel appearing for the appellants/claimants submitted that the accident occurred due to the rash and negligent driving by the first respondent bearing Registration No.TN-29-G-0753 of the second respondent vehicle dashed the motorcycle, the petitioner was died on the spot. Learned counsel appearing for the appellants/claimants further submitted that at the time of the accident, the deceased was 45 years old and the accident occurred in the year 2015, the correct notional income for the accident 2015 is Rs.12,000/-. He further submitted that the Tribunal has awarded only a meagre compensation and has not



awarded any amount in respect of loss of love and affection. Hence, he prayed to allow the appeal.

7.Learned counsel appearing for the respondents submitted that the accident occurred due to the rash and negligent driving of the deceased. The Tribunal has awarded the compensation which is just and reasonable and therefore, no interference is required. Hence, he prayed to dismiss the appeal.

8.Heard learned counsel appearing for the appellant as well as the respondents and perused the materials available on record.

9.Before the Tribunal, the first petitioner was examined as PW1 and an eyewitness was examined as PW2 and on the side of the petitioners, 5 documents were marked as Exs.P1 to P5. On the side of the Respondents, 1 witness was examined RW1 and 1 document was marked as Ex.R1.

10.The Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.15,000/- for funeral expenses, Rs.40,000/- for loss



of marital life, Rs.15,000/- for loss of estate, Rs.10,456/- for medical bills, Rs.12,60,000/- for loss of income and arrived at a total compensation of Rs.13,40,456/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

11. On perusal of records, it is seen that the deceased was aged 45 years and he was self employed and earning Rs.15,000/- at the time of the accident.

12. The amount awarded under the heads loss of estate, medical bill and funeral expenses, in the opinion of this Court is just and reasonable. The Tribunal has not awarded any amount under the loss of love and affection. Accordingly, this Court is inclined to award Rs.2,00,000/- for loss of love and affection. The amount awarded under the head loss of income, in the opinion of this Court is very meagre and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded under the loss of income is enhanced to Rs.18,90,000/- from Rs. 12,60,000/- and the amount awarded under the head transport expenses is enhanced to Rs.10,000/-. The Tribunal has awarded Rs.40,000/- for loss of marital life. However, this Court is



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not inclined to award any amount for loss of marital life as this Court feels that it is not necessary

13.The accident happened in the year 2015. The correct notional income at that relevant point of time at Rs.12,000/-. As per the judgment in *National Insurance Company Limited vs. Pranay Sethi and Ors.* reported in 2017 13 S.C.R.100 and in *Sarla Varma and Ors. Delhi Transport Corporation and Anr.* reported in 2009 5 S.C.Rr.1095, this Court is inclined to fix Rs.12,000/- as notional monthly income. Loss of dependency works out to in the following manner:

$$\text{Rs.12,000/-} - 1/4 - \text{Rs.9,000/-} + 25\% = \text{Rs.2,250/-}; \text{Rs.9,000/-} + \text{Rs.2,250} = \text{Rs.11,250/-}; \text{Rs.11,250/-} \times 12 \times 14 = \text{Rs.18,90,000/-}$$

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

S.No.	Description	Amount awarded by Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Funeral expenses	15,000/-	15,000/-
2.	Loss of marital life	40,000/-	-



3.	Loss of estate	15,000/-	15,000/-
4.	Medical bills	10,456/-	10,456/-
5.	Loss of earning	12,60,000/-	18,90,000/-
6.	Loss of love and affection	-	2,00,000/-
	Total	Rs.13,40,456/-	Rs.21,30,456/-

15.The claimants are entitled to a sum of Rs.21,30,456/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

16.The judgment and decree passed by the Motor Accident Claims Tribunal/1st Additional District and Sessions Court, Salem, Salem District in M.C.O.P.No.2848 of 2015 dated 04.12.2019, is modified to the above extent.

17.The 4th respondent/2nd respondent 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 if not deposited earlier. On such deposit being made, the claimants are permitted to withdraw along with accrued interest and proportionate



costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal.

18. The claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accident Claims Tribunal/1st Additional District and Sessions Court, Salem, Salem District, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the claimants.

19. In the result, the claim made by the appellant in C.M.A.No.1546 of 2021 is rejected and accordingly the same is dismissed and the appeal filed by the claimants in C.M.A.No.1872 of 2021 is allowed. No costs. Consequently, connected miscellaneous petition is closed.

27.11.2024

Index: Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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To

- 1.The Motor Accidents Claims Tribunal/
1st Additional District and Sessions Court,
Salem, Salem District.
- 2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



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M.DHANDAPANI, J.

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C.M.A.Nos.1546 & 1872 of 2021

27.11.2024



C.M.A.Nos.1546 & 1872 of 2021

M.DHANDAPANI, J.

This matter is listed today under the caption “for being mentioned” at the instance of the Registry.

2.It is brought to the notice of this Court by the Registry that there is a correction in the 17th & 18th paragraphs passed in the common judgment dated 27.11.2024 in the aforesaid appeal.

3.Upon perusing the order, this Court directs that paragraphs 17 & 18 of the common judgment in C.M.A.Nos.1546 & 1872 of 2021 dated 27.11.2024, shall stand substituted with the following paragraph:

"17.Accordingly, C.M.A.No.1872 of 2021 is allowed and the impugned Award of the Tribunal is modified, enhancing the compensation amount from Rs.13,40,456/- to 21,30,456/-. The second respondent is directed to deposit the said amount to the credit of M.C.O.P.No.2848 of 2015 dated 04.12.2019 on the file of Motor Accidents Claims Tribunal/1st Additional District and Sessions Court, Salem, Salem District along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as



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awarded by the Tribunal, less, the amount, if any already deposited, within a period of eight (8) weeks from the date of receipt of a copy of this judgment. The 1st respondent/wife is entitled to Rs.9,30,546/- and the respondents 2 & 3/claimants are entitled to Rs.6,00,000/- each. On the date of filing of the appeal, the claimants 2 & 3 were 17 years and 16 years respectively by then now they become majority. The said claimants are directed to submit proof of their attained majority before the Tribunal so as to enable the Tribunal to transfer the amount directly to the bank account. On such deposit being made, the Tribunal is directed to transfer the share of the 1st claimant, directly to the bank account of the 1st claimant through RTGS within a period of two (2) weeks thereafter upon production of proof with regard to payment of Court fee on the enhanced compensation amount by the claimants. If claimants have not attained majority, the Tribunal is directed to deposit the share of the said claimants in an interest yielding fixed deposit with any one of the Nationalised Banks, initially for a period of three years to be renewed at periodic intervals until they attain majority and interest derived from out of the said deposit shall be paid to the mother/1st claimant every quarter to be utilised for the welfare of the said minor claimants. After attaining majority, it is open to



the said claimants to file necessary application to establish their majority, at which point of time, the Tribunal is directed to transfer the amount in fixed deposit to the bank account of the said claimants in accordance with law. It is made clear that the appellants will not be entitled to any interest for the delay period."

4.Except the above modifications, all other paragraphs made in the earlier order dated 27.11.2024 shall remain intact.

5.Registry is directed to carry out necessary corrections and to issue fresh order copy to the parties.

30.04.2025

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C.M.A.Nos.1546 & 1872 of 2021

30.04.2025