



WEB COPY



C.M.A. No.1679 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1679 of 2021

1. Kavitha

2. Minor Ranjith

3. Minor Surya

Minors are rep. by their next friend,

Natural Guardian / mother Kavitha

4. Sengamalai

5. Poonchulai

.... Appellants

vs.

1. Anandhan

2. The Branch Manager,
Reliance General Insurance Company Ltd.,
Reliance Centre,
No.19, Walchand Hirachand Marg,
Ballard Estate,
Mumbai – 400 001.

3. Kasi

.... Respondents

Prayer : Civil Miscellaneous Appeal filed under 173 of the Motor Vehicles Act, 1988 to enhance the compensation amount made in Judgment and decree dated 19.02.2021 made in M.C.O.P. No.670 of 2015 on the file of the Motor Accident Claims Tribunal and Principal District Judge, Perambalur by allowing this Civil Miscellaneous Appeal.



C.M.A. No.1679 of 2021

For Appellant : Mr.S.P. Yuvaraj
For Respondents : Mr.P. Suresh Srinivasan
for R2
R1 & R3 - Exparte

JUDGMENT

This appeal has been filed by the claimants seeking enhancement of compensation.

2. Heard Mr.S.P. Yuvaraj, learned counsel for the appellants / claimants and Mr. P. Suresh Srinivasan, learned counsel for the 2nd respondent / Insurance Company. The 1st respondent and 3rd respondent have remained ex-parte both before the Tribunal and before this Court.

3. The Tribunal under the impugned award has directed the 2nd respondent / Insurance Company to pay the appellants / claimants a sum of Rs.12,04,000/- as compensation for the death of Rajini. The details of the compensation awarded by the Tribunal under the impugned award to the appellants / claimants is as follows :-

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Loss of dependency Rs.6,000 + 40% x 12 Less 1/4 th x 15	11,34,000
Consortium	40,000



C.M.A. No.1679 of 2021

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>
Loss of estate	15,000
Funeral expenses	15,000
Total	12,04,000

4. According to the appellants / claimants, the deceased was a painting Contractor. In the claim petition, they have pleaded that the deceased was earning Rs.20,000/-p.m., at the time of the accident. The accident happened on 14.07.2015. The deceased was aged 33 years at the time of the accident. The Tribunal has fixed the notional monthly income of the deceased at Rs.6,000/-, which in the considered view of this court is low. If the avocation and the year of the accident was taken into consideration, the Tribunal ought to have fixed the notional monthly income of the deceased at Rs.10,000/-. Accordingly, this Court enhances the notional monthly income of the deceased from Rs.6,000/- to Rs.10,000/-. The Tribunal has rightly awarded 40% towards loss of future prospects after giving due consideration to the age of the deceased. Since the notional monthly income of the deceased is enhanced by this Court to Rs.10,000/-, the loss of future prospects is assessed at Rs.14,000/-. The Tribunal has rightly deducted 1/4th towards personal expenses of the deceased, since the dependants of the deceased viz., his



C.M.A. No.1679 of 2021

wife, parents and two minor children and they are five in number. Since the notional monthly income of the deceased is enhanced by this Court from Rs.6,000/- to Rs.10,000/-, the compensation payable towards loss of income is re-assessed by this Court at Rs.18,90,000/- instead of Rs.11,34,000/- erroneously fixed by the Tribunal.

5. The Tribunal has rightly awarded a compensation of Rs.40,000/- towards loss of consortium since the deceased has left behind his wife.

6. However, the Tribunal has committed an error in not awarding any compensation towards loss of love and affection for the parents and the minor children of the deceased, since they are four in number, each of them are entitled for Rs.40,000/- towards loss of love and affection, as per the settled law. Accordingly, this Court awards Rs.1,60,000/- towards loss of love and affection.

7. The Tribunal has rightly awarded a compensation of Rs.15,000/- towards funeral expenses and another sum of Rs.15,000/- towards loss of estate, which is confirmed by this Court.

8. For the foregoing reasons, the award of the Tribunal is hereby



C.M.A. No.1679 of 2021

enhanced in the following manner :

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
Loss of dependency *Rs.6,000 + 40% x 12 Less 1/4 th x 15 # Rs.10,000 + 40% x 12 Less 1/4 th x 15	11,34,000 *	18,90,000 #
Consortium	40,000	40,000
Loss of estate	15,000	15,000
Funeral expenses	15,000	15,000
Loss of love and affection to minor children and parents of the deceased (Rs.40,000/- x 4)	-	1,60,000
Total	12,04,000	21,20,000

9. In the result, the appeal filed by the appellants / claimants, stands partly allowed by enhancing the compensation from Rs.12,04,000/- to Rs.21,20,000/- as indicated above. No costs.

10. The Tribunal has rightly granted pay and recovery rights to the 2nd respondent / Insurance Company, since the Driver of the vehicle insured with the 2nd respondent / Insurance Company was not possessing a valid driving licence and there is no badge endorsement for the said vehicle. Therefore, the pay and recovery rights granted to the 2nd respondent / Insurance Company under the impugned award is hereby



C.M.A. No.1679 of 2021

confirmed by this Court.

WEB COPY

11. The second respondent / Insurance Company is directed to deposit the entire award amount as assessed by this Court together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of MCOP No.670 of 2015 on the file of the Motor Accident Claims Tribunal, Principal District Court, Perambalur, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant / claimant through RTGS, within a period of two weeks thereafter. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the first, third and fourth appellants / major claimants as per the same ratio of apportionment made by the Tribunal through RTGS, within a period of two weeks thereafter. Insofar as the share of the second and third appellants / minor claimants are concerned, the same shall be deposited in Fixed Deposit in any one of the Nationalised Banks, till they attain the age of majority and the interest accrued thereon shall be withdrawn by the guardian of the minor claimants, once in three months, directly from the Bank. If the minor appellants 2 and 3 have



C.M.A. No.1679 of 2021

attained the age of majority, it is open for them to file a formal petition before the Tribunal to get their share of apportionment. Necessary Court fee, if any has to be paid by the appellants / claimants before receiving the copy of this Judgment.

16.07.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2
To

1. The Principal District Judge,
Motor Accident Claims Tribunal,
Perambalur.

2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.

ABDUL QUDDHOSE, J.

vsi2



WEB COPY



C.M.A. No.1679 of 2021

C.M.A. No.1679 of 2021

16.07.2024