



CMA No.2280 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2280 of 2021

Judgment reserved on 15.02.2024	Judgment pronounced on 23.02.2024
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1.K.Nagarathinam
2.K.Nattarayan
3.K.Gnanasekaran
4.K.Kamaraj

...

Appellants

Vs.

1.P.Balasubramani

2.M/s.National Insurance Co. Ltd.,
Divisional Office at 2nd Floor,
Maruthi Complex, F-215
Omalur Main Road,
P.B. 27, Salem.

...

Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the order dated 20.01.201 passed in MCOP No.324 of 2017 on the file of the Special District Judge, MCOP Tribunal, Salem.

For Appellant	: Mr.A.Murugan
For R1	: No appearance
For R2	: Mr.D.Baskaran



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J U D G M E N T

The claim petitioners are the appellants herein seeking enhancement of compensation awarded in M.C.O.P.No.324 of 2017 on the file of the Motor Accident Claims Tribunal Judge /Special District Judge, Salem.

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

3. On the point of quantum of compensation, both the counsel for the appellanta as well as second respondent heard. Though notice has been served on the first respondent and his name has been printed in the cause list, there is no representation for the first respondent.

4. The first appellant is the mother and the appellants 2 to 4 are the brothers of the deceased Gopal who died in the road accident happened on 09.09.2016 and they filed the above claim petition seeking



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compensation.

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5. As per Ex.P6 – driving licence, the date of birth of the deceased is 14.05.1972. The accident occurred on 09.09.2016 and hence, on the date of accident, the deceased was aged 44 years. As per **SARLA VERMA's case**, the multiplier applicable is 14. As per the judgment of the Hon'ble Supreme Court in **Pranay Sethi** case, 25% has to be awarded towards future prospects. In the absence of any documentary evidence to prove the avocation and income of the deceased, the Tribunal has fixed the notional monthly income as Rs.10,000/- and awarded 25% towards future prospects. The learned counsel appearing for the appellants/claim petitioners draw my attention to Ex.P8 – Income Tax Return Verification Form for the Assessment Year 2015-16 and contended that the deceased was earning more than Rs.12,000/- per month, as per the Income Tax Return and the deceased has earned Rs.1,72,150/- towards annual profit. Hence, by fixing Rs.12,000/- as monthly notional income and granting 25% towards future aspects, applying multiplier 14 and deducting 50% towards personal expenses of the deceased, the compensation towards loss of dependency is enhanced to Rs.12,60,000/-, details as follows -



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$$12,000 + 3000 (25\% \text{ of } 12000) \times 12 \times 14 \times 1/2 = 12,60,000/-$$

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6. The amounts awarded by the Tribunal towards loss of estate and funeral expenses are just and reasonable and hence the same are hereby confirmed. The appellants 2 to 4 who are elder brothers of the deceased are married and hence they are not dependant on the deceased. The Tribunal has not awarded any amount towards loss of love & affection. The first petitioner who is the mother of the deceased has lost her son at this young age. Hence, a sum of Rs.50,000/- is awarded towards loss of love & affection to the first appellant. The appellants 2 to 4 have lost their brother at his young age and hence they are entitled to a sum of Rs.30,000/- each towards loss of love & affection. Thus, the compensation awarded by the Tribunal is enhanced from Rs.10,80,000/- to Rs.14,30,000/-, break-up as follows -

Sl. No	Heads under which the amount is awarded	Amount awarded by the Tribunal – Rs.	Amount awarded by this Court – Rs.
1.	Loss of dependency	10,50,000/-	12,60,000/-
2.	Loss of Estate	15,000/-	15,000/-
3.	Funeral expenses	15,000/-	15,000/-
4.	Loss of love &	-	50,000/-



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<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>
	affection to 1 st appellant		
5.	Loss of love & affection to the appellants 2 to 4	-	90,000/- (30000 x 3)
	Total	10,80,000/-	14,30,000/-

8. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.10,80,000/- to Rs.14,30,000/- to the extent indicated above, alongwith 7.5% interest per annum. No costs.

(ii) the 2nd Respondent/Insurance Company 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 1st appellant is permitted to withdraw a sum of Rs.13,40,000/- and the appellants 2 to 4 are permitted to



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withdraw a sum of Rs.30,000/- each, alongwith proportionate interest and costs, less the award amount, if any, already withdrawn, by filing necessary application before the Tribunal.

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

23.02.2024

rgr

Index : Yes/No

Speaking/Non-speaking order

To

1.The Special District Judge,
Motor Accident Claims Tribunal,
Salem.

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



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RMT.TEEKAA RAMAN, J.

rgr

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