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C.M.A.No.2776 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.2776 of 2023

- 1.Victoria
- 2.Johnsirani
- 3.Johnsondurai

...Appellant

Vs

- 1.A.Vijay
- 2.Reliance General Insurance Co., Ltd.,
Sri Lakshmi Complex, 1st Floor,
Omalur Main Road, Bharathi Street,
Swarnapuri, Salem 636 004.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award amount in the order dated 27.09.2022 made in MCOP.No.285 of 2017 on the file of the Motor Accident Claims Tribunal/Subordinate Judge Court, Sankari.

For Appellant : Mr.T.S.Arthanareeswaran.

For Respondents : Mr.G.Vasudevan for R2
Notice dispensed with for R1



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JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgement dated 27.09.2022 in MCOP.No.285 of 2017.

2. The learned counsel appearing for the appellant would submit that on 19.05.2017, while one Fathima was travelling with the 1st respondent as a pillion rider in a two wheeler bearing Registration No.TN-52-T-4900, due to the rash and negligent driving of the 1st respondent, the said two-wheeler skid on the road and both the 1st respondent and Fathima fell down. As a result, the said Fathima was died on spot. Considering all the aspects, the Tribunal had awarded the following compensation:

<i>S.No</i>	<i>Particulars</i>	<i>Tribunal Award (Rs.)</i>
1	Loss of Dependency	5,20,000
2	Loss of Estate	16,500
3	Funeral Expenses	16,500
4	Love and Affection	Nil
	Total	5,53,000



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3. The learned counsel for the appellants would submit that while awarding compensation under the head the loss of dependency, the Tribunal has only taken a sum of Rs.4,000/- as notional income of the deceased, which is on lower side. Hence, he would request this Court to enhance the same. Further, he would submit that the husband of the deceased was already passed away and the appellants are three children and legal heirs of the deceased. Thus, he would suggest this Court to fix a sum of Rs.14,000/- as notional income of the deceased.

4. In reply, since the accident is occurred in the year 2017, the learned counsel for the respondent would request this Court to fix a sum of Rs.13,000/-, which is just and reasonable.

5. Heard the learned counsel for the appellants and the respondents and also perused the materials available on record.

6. In the present case, it appears that the deceased was a laundry worker and hence, considering the age of the deceased and the year of accident, this



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Court is inclined to fix a sum of Rs.13,000/- as notional income of the deceased.

Further, 25% shall be added as future prospects and $\frac{1}{3}^{\text{rd}}$ shall be deducted towards the personal expenses of the deceased. Therefore, the loss of dependency shall be calculated as follows:

$$\begin{aligned} &\text{Rs.13,000 (notional income) + Rs.3,250 (future prospects 25\%)} \\ &*13 (\text{multiplier}) *12 (\text{months}) * \frac{2}{3} (\text{dependency}) = \text{Rs.16,90,000/-} \end{aligned}$$

7. Further, it appears that the Tribunal had awarded a sum of Rs.16,500/- each towards funeral expenses and loss of estate, which are on higher side and no amount was awarded for transportation. Hence, this Court is inclined to award Rs.15,000/- towards funeral expenses, Rs.15,000/- towards loss of estate and Rs.10,000/- towards transportation.

8. Further, the Tribunal had not awarded any compensation under the head “loss of Love and affection”. Hence, this Court is inclined to award a sum of Rs.1,20,000/- (Rs.40,000 each) to the appellants. Accordingly, the compensation awarded by the Tribunal is modified as follows:



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S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
1	Loss of income	5,20,000	16,90,000
2	Funeral Expenses	16,500	15,000
3	Loss of Estate	16,500	15,000
4	Transportation	Nil	10,000
5	Loss of Love and Affection	Nil	1,20,000 (40,000 each)
	Total	5,53,000	18,50,000

8. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.18,50,000/-. Accordingly, the award amount stands increased from a sum of Rs.5,53,000/- to Rs.18,50,000/-. In all other aspects, the award of the Tribunal stands confirmed. It is also made clear that equal shares of compensation will be awarded to each claimants.

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent/insurance company is directed to deposit a sum of Rs.18,50,000/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.285 of 2017 on the file of the Subordinate



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Judge Court, Motor Accident Claims Tribunal, Sankari. Upon such deposit, the Tribunal is directed to transfer the entire amount to the respective bank accounts of the appellants, as per the proportion determined by this Court, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

09.01.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa

To:

The Motor Accident Claims Tribunal,
Special Subordinate Court, Sankari.



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KRISHNAN RAMASAMY,J.

nsa

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