



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.1838 of 2022

1. R.Rajakumari
2. Minor R.Ananthi
3. Minor R.Kavin
(Minor Petitioners represented by
mother guardian N.F.R.Rajakumari,
1st Appellant herein)
4. Kasiyammal .. Appellants

Vs.

1. R.Sakthivel
2. Vimala
3. The Divisional Manager
United India Insurance Co. Ltd
Third Party Service Hub,
Plot No.35,36 and 37
AR Plaza, 45 Feet Road, Balaji Nagar
Extn. Saram, Puducherry-605011. .. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.11.2021 made in M.C.O.P.No.3869 of 2018 by the learned Motor Accident Claims Tribunal/Special Sub Judge, Cuddalore.

For Appellant : Ms.Ramya V.Rao



For Respondents : No appearance (R1 & R2)
Ms.C.Harini
for M/s.M.B.Gopalan Associates (R3)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 30.11.2021 made in M.C.O.P.No.3869 of 2018 on the file of the Motor Accident Claims Tribunal/Special Sub Judge at Cuddalore.

2. The appellants are the claimants in M.C.O.P.No.3869 of 2018 on the file of *Motor Accidents Claims Tribunal/Special Sub Judge, Cuddalore*. They filed the above said claim petition, claiming a sum of **Rs.40,00,000/-** as compensation for the death of one Ranganathamoorthy, who died in an accident that took place on 22.05.2018.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of **Rs.27,44,200/-** as compensation to the appellants.

4.Not being satisfied with the amount awarded by the Tribunal, the



appellants have come out with the present appeal seeking enhancement of compensation.

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5.The learned counsel for the appellants contended that the accident took place in the year 2018 and at the time of accident, the deceased Ranganathamoorthy was a head cook, undertaking catering works and was earning a sum of Rs.30,000/- per month, but the Tribunal having accepted the same, has fixed only a sum of Rs.12,000/- as monthly income of the deceased, while determining the compensation towards Pecuniary Loss, which is very low. She further submitted that considering the year of accident and the number of dependants of the deceased, a sum of Rs.15,000/- may be fixed as monthly income of the deceased. She further submitted that the compensation awarded by the Tribunal towards other heads is also very low and the same needs to be enhanced.

6.Per contra, learned counsel appearing for the 3rd respondent-Insurance Company contended that since the appellants have not filed any documentary evidence in order to prove that the deceased was earning a sum of Rs.30,000/- per month, the Tribunal, by taking note of the age of the deceased and the number of the dependants, has fixed the notional monthly



income of the deceased at Rs.12,000/- and the same is reasonable. He further submitted that the total compensation awarded by the Tribunal under various heads is not meagre. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 3rd respondent-Insurance Company and perused the entire materials on record.

8. It is the case of the appellants that at the time of accident the deceased was aged 34 years and was a Headcook, undertaking catering orders and earning a sum of Rs.30,000/- per month. But no documents have been filed to that effect. The Tribunal, taking note of the year of accident and the number of dependants, have fixed notional income of the deceased at Rs.12,000/- per month, which in the opinion of this Court, is very low and hence this Court deems it fit to fix a sum of Rs.15,000/- as notional income of the deceased and accordingly a sum of Rs.15,000/- is fixed as monthly income of the deceased and by adding future prospects @40%, a sum of Rs.21,000/-(15000+6000) is arrived and by adopting multiplier '16' as per Judgment of the Hon'ble Supreme Court in the case of **SARLA VERMA AND**

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reported in (2009) 4 MLJ 997, a sum of Rs.40,32,000/- (21,000x12x16) is arrived and by deducting 1/4rd towards personal expenses, a sum of **Rs.30,24,000/-**(40,32,000-10,08,000) is awarded towards **Pecuniary Loss** and hence the compensation towards Pecuniary Loss is enhanced from Rs.24,19,200/- to Rs.30,24,000/-. The Tribunal awarded a sum of Rs. 2,50,000/- towards **Loss of Love and Affection** to the children of the deceased, which is on the higher side and therefore the same is reduced to Rs.1,20,000/-. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Pecuniary Loss	24,19,200/-	30,24,000/-	Enhanced
2.	Loss of Consortium (wife)	40,000/-	40,000/-	Confirmed
3.	Loss of Love and Affection	2,50,000/-	1,20,000/-	Reduced
4.	Loss of Estate	15,000/-	15,000/-	Confirmed
5.	Funeral Expenses	15,000/-	15,000/-	Confirmed
6.	Transport	5,000/-	5,000/-	Confirmed



S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
	Total	Rs.27,44,200/-	Rs.32,19,000/-	Enhanced by Rs.4,74,800 /-

10.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.27,44,200/- is hereby enhanced to Rs.32,19,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The Claimants are entitled to the compensation as apportionment made by the Tribunal. The 3rd respondent-Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of **M.C.O.P.No.3869 of 2018** on the file of the Motor Accidents Claims Tribunal/Special Sub Judge, Cuddalore . On such deposit being made, the Tribunal is directed to transfer the Award amount, as apportioned by the Tribunal, directly to the Bank account of the Appellants/Claimants 1 and 4 through RTGS, within a period of **three weeks**. The shares of the minor appellants viz., appellants 2 and 3 shall be deposited in a Fixed Deposit scheme till they attain majority and the 1st



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appellant/claimant who is the mother of the minors is entitled to withdraw the interest once on three months. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

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Index : Yes / No

Internet : Yes / No

To

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2. The Motor Accident Claims Tribunal,
Special Sub Judge, Cuddalore.

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3. The Section Officer,
VR Section,
High Court,
Madras.

KRISHNAN RAMASAMY, J.

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