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C.M.A.No.1662 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

Civil Miscellaneous Appeal No.1662 of 2022

1. N.Seetha

2. J.Ravi

... Appellants

Vs.

1. P.Santhoshkumar

2. B.Dharmaraj

3. M/s.The United India Insurance Co. Ltd.,
Regional Office,
178, Dr.Nanjappa Road,
Coimbatore 641 018.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Award and Decree dated 29.11.2021 passed in M.C.O.P.No.513 of 2019 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Coimbatore.

For Appellants : Mr.P.M.Duraisamy

For R1 & R2 : No appearance

For R3 : M/s.R.Sree Vidhya



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JUDGMENT

WEB COPY This Civil Miscellaneous Appeal has been filed by the claimants seeking for enhancement of compensation awarded by the Tribunal in M.C.O.P.No.513 of 2019 dated 29.11.2021 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Coimbatore.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The claimants are the parents of the deceased Sabarish who was died in the road accident taken place on 16.12.2018 at about 5.10 p.m., on the Covai to Mettupalayam Road near Thanneer Panthal at Petthapuram. The claimants claimed a sum of Rs.30,00,00/- before Tribunal as compensation by invoking under Section 166 of the Motor Vehicles Act.

4. The respondent No.1 is the driver and respondent No.2 is the owner of the offending vehicle and they have not contested the claim before the Tribunal. The respondent No.3 is the insurer of the offending vehicle alone has contested the claim. After considering the evidence and



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pleadings placed on record, the Tribunal quantified the claim and awarded compensation of Rs.10,83,546/- along with interest at the rate of 7.5% per annum from the date of filing of claim petition till the date of realisation.

5. Aggrieved over the fixation of compensation awarded under the head loss of income and for seeking enhancement of compensation, this appeal has been filed by the claimants.

6. In support of the same, the learned counsel for the claimant has relied on the evidence of P.W.3, under whom, the deceased was working as a Daily worker in a Private Company. According to P.W.3, the deceased was earning a sum of Rs.12,000/- per month. However, the Tribunal without considering the same, recorded its finding that the evidence of P.W.3 to prove the income of the deceased is insufficient and hence, fixed the notional income of the deceased at Rs.6,000/- per month, which is on the lower side. Admittedly, the deceased was aged about 23 years, at the time of accident and he was working as a daily wager, the notional income fixed by the Tribunal is on the lower side and prays to enhance the compensation awarded.



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7. Per contra, the learned counsel for the Insurance Company submitted that admittedly, the claim made by the claimants by examining P.W.3 which is on the higher side and this evidence has not been accepted by the Tribunal has rightly fixed the notional income of the deceased as Rs.6,000/- per month. Hence, prays to dismiss the claim.

8. I have considered the rival submissions made on both sides and also perused the records available.

9. Considering the evidence of P.W.3 and also the submissions made across the bar, I am inclined to fix the notional income of the deceased as Rs.10,000/- per month. The Tribunal has properly fixed the future prospects as 40% as per the Apex Court Judgment in ***National Insurance Co. Ltd., vs. Pranay Sethi and other (2017(2) TN MAC 609 (SC): 2017 (16) SCC 680*** and the same is hereby confirmed. The Tribunal has properly fixed the multiplier '18' as per the Apex Court Judgment in ***Sarla Verma and others Vs. Delhi Transport Corporation and others [2009 ACJ 1298 SC : 2009 (6) SCC 121]***, by considering the age of the deceased at the time of the accident and since the deceased is a bachelor, the Tribunal has properly



deducted 50% towards his personal expenses. Accordingly, the following calculations have been made to calculate the loss of income: [10000 + 4000 (40% of 10000) x 12 x 18 x 1/2 = Rs.15,12,000/-]. As far as the compensation awarded under other heads are concerned, the same are just and reasonable and the same this Court need not interfere with the award of the Tribunal and the same are hereby confirmed.

10. Accordingly, the Award passed by the Tribunal under various heads are hereby modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or reduced
1.	Loss of dependency	Rs.9,07,200/-	Rs.15,12,000/-	Enhanced
2.	Funeral Expenses	Rs.16,500/-	Rs.16,500/-	Confirmed
3.	Loss of Estate	Rs.16,500/-	Rs.16,500/-	Confirmed
4.	Loss of Filial Consortium	Rs.88,000/-	Rs.88,000/-	Confirmed
5.	Medical Expenses	Rs.55,346/-	Rs.55,346/-	Confirmed
	Total Compensation	Rs.10,83,546/-	Rs.16,88,346/-	Enhanced by Rs.6,04,800/-



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11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.10,83,546/- is hereby enhanced to Rs.16,88,346/- [Rupees Sixteen Lakhs Eighty Eight Thousand Three Hundred and Forty Six only] along with interest at the rate of 7.5% per annum from the date of filing of Claim Petition till the date of deposit, excluding the default period, if any. The Insurance Company is directed to deposit the amount now awarded 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.513 of 2019 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Coimbatore. On such deposit, the appellants are permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if any, already withdrawn, as per the apportionment fixed by the Tribunal. The Tribunal shall disburse the amount now awarded by this Court by directly giving credit to the Savings Bank Account of the claimants. The Insurance Company is permitted to withdraw the amount, if any, lying in the credit of M.C.O.P.No.513 of 2019 on the file of the Motor Accident Claims Tribunal, IV Additional District



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Judge, Coimbatore. Since this Court enhanced the compensation, the appellants/claimants are directed to pay the necessary court fee if any, on the enhanced compensation. In other aspects the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

21.11.2024

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Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No

To:

1. The IV Additional District Judge,
Motor Accident Claims Tribunal,
Coimbatore.
2. The Section Officer,
V.R.Section,
High Court,
Chennai.



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K. RAJASEKAR, J.

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