



C.M.A.No.17 of 2024

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.17 of 2024

Hussain

...Appellant

Vs

1.Bashiyam
2.Divisional Manager,
The New India Assurance Company Limited,
CSI Building, 2nd Floor,
No.1, Officers Lane,
Near Ooris College,
Vellore.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award amount and set aside the judgement and decree dated 12.09.2015 and made in MACTOP.No.712 of 2014 on the file of the Motor Accident Claims Tribunal, Special Motor Accident Compensation Claims Tribunal, Special Sub Court, Thiruvannamalai.

For Appellant : Mr.F.Terry Chella Raja

For Respondents : Mr.T.Jayaraman for R2



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3. Further, he would submit that though the deceased was a tailor and earned a sum of Rs.10,000/- per month, the Tribunal had taken only a sum of Rs.4,500/- as notional income for awarding compensation. In this regard, he referred to the judgement of the Hon'ble Apex Court in *Syed Sadiq and others vs. Divisional Manager, United India* reported in *MANU/SC/0033/2014* and submit that by applying cost inflation, the income of the deceased would be a sum of Rs.9,500/-. Hence, he requests this Court that a sum of Rs.10,000/- may be fixed as notional income of the deceased.

4. In reply, the learned counsel for the respondent would suggest that a sum of Rs.7,000/- may be fixed as notional income of the deceased.

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

6. In the present case, considering the year of accident, cost inflation and age of the deceased at the time of accident, this Court is inclined to fix a sum of



Rs.9,000/- as notional income instead of Rs.4,500/-. Accordingly, the loss of income shall be calculated in the following manner:

$$\text{Rs.9,000/- (income) + Rs.3,600 (future prospects - 40\%)} * 12 \text{ (months)} \\ * 18 \text{ (multiplier)} * 2/3 \text{ (loss of dependency)} = \text{Rs.18,14,400/-}$$

7. Further, since the compensation awarded by the Tribunal under the head loss of consortium for the husband of the deceased for a sum of Rs.20,000/- is on lower side, this Court is inclined to award a sum of Rs.40,000/-. The Tribunal had also awarded a sum of Rs.20,000/- towards the funeral expenses, which is on higher side. Hence, the said amount is reduced to a sum of Rs.15,000/-. Further, since no amount was awarded under the head “Loss of Estate” and “Transportation” by the Tribunal, this Court is inclined to award a sum of Rs.15,000/- towards the “Loss of Estate” and a sum of Rs.10,000/- towards “Transportation”.

8. Accordingly, the compensation awarded by the Tribunal is modified as follows:



S.No.	Heads	Compensation awarded by Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
1	Funeral Expenses	20,000	15,000
2	Loss of Estate	Nil	15,000
3	Transportation	Nil	10,000
4	Loss of Consortium	20,000	40,000
5	Loss of Income	6,48,000	18,14,400
6	Medical bills	4,53,112	4,53,112
	Total Compensation is fixed at	11,41,112	23,47,512

9. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.23,47,512/-. Accordingly, the award amount stands increased from a sum of Rs.11,41,112/- to Rs.23,47,512/-. In all other aspects, the award of the Tribunal stands confirmed. It is also made clear that the compensation will be awarded in the following proportions:

- i) Husband of the deceased/appellant – Rs.15,47,512/-
- ii) Parents of the deceased,
who are not parties to the present appeal - Rs.8,00,000/-

10. It is pertinent to note that the claimant, who is the husband of the deceased, has filed the claim petition before the Tribunal without impleading the parents of the deceased and further, no details with regard to the parents of the



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deceased were given by the claimant/appellant. This Court is of the view that being parents of the deceased, they are also entitled for compensation and hence, this Court taking into consideration of the facts and circumstances of the present case, feels it appropriate to award the aforesaid sum of Rs.8,00,000/- to the parents of the deceased (Rs.4,00,000/- each). Accordingly, a sum of Rs.8,00,000/- is awarded as compensation to the parents of the deceased.

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent/insurance company is directed to deposit a sum of Rs.23,47,512/- 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 MACTOP.No.71 of 2014 on the file of the Special Sub Court, Motor Accident Claims Tribunal, Thiruvannamalai. Upon such deposit, the Tribunal is directed to withhold a sum of Rs.8,00,000/- together with interest, from and out of the total compensation and transfer the remaining amount to the bank account of the appellant, 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,



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whichever is earlier.

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12. Further, the Tribunal is directed to find out the details and whereabouts of the parents of the deceased by sending communication to the Inspector of Police of the Jurisdictional Police Station and thereafter, on thorough verification, the Tribunal shall permit the parents of the deceased to withdraw their share of compensation i.e., Rs.8,00,000/-. It is made clear that if the parents of the deceased are not available, the Tribunal shall make endeavor to trace out the siblings of the deceased and permit them to withdraw the said amount. No cost.

09.01.2024

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

To:

The Motor Accident Claims Tribunal,
Special Sub Court, Thiruvannamalai.



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KRISHNAN RAMASAMY,J.

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