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C.M.A.No.2483 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2024

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2483 of 2021

1.Poongodhai
2.Santhiya
3.Kishore
4.Vellammai

... Appellants

..Vs..

1.Raja Rajeswari Transports
No.07-B3, Parvathipuram
Musiri Post and Taluk
Trichy District.
2.The Branch Manager
M/s.United India Insurance Co. Ltd.,
No.50-A, Pallivasal Street
Perambalur.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the award and decree dated 21.01.2021 made in M.C.O.P No.673 of 2017 on the file of the Motor Accident Claim Tribunal / District and Sessions Judge, Mahila Court, Perambalur.

For Appellants : Mr.M/s.Sithi Fathima Samt
For Mr.C.Vidhusan

For Respondents : Mr.M.J.Vijayaraghavan for R2



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J U D G M E N T

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This appeal has been filed by the claimants seeking enhancement of compensation.

2. The Tribunal under the impugned award has directed the second respondent/Insurance Company to pay the appellants/claimants, a compensation of Rs.13,30,000/- for the death of Sekar as a result of an accident caused by a vehicle insured with the second respondent/Insurance Company.

3.The details of the compensation awarded by the Tribunal is set out hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Loss of dependency	12,60,000/- (Rs.8,000 + (25% future prospects 2000 x 12 = Rs.1,20,000 less 1/4th deduction Rs.30000 = 90,000/- x 14)
Consortium(wife only)	40,000/-
Loss of estate	15,000/-/-
Funeral Expenses	15,000/-
Total	13,30,000/-

4. The accident happened in the year 2017. The appellants/claimants



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have pleaded in their claim petition that the deceased was a Barber at the time of the accident. Excepting for producing a receipt issued by the Barber Association on 08.05.2015 which is marked as exhibit P5, the appellants/claimants have not produced any documentary evidence or examined any independent witness to prove that the deceased was earning a higher monthly income on the date of accident. Since no documentary evidence is produced, the Tribunal has fixed the notional monthly income of the deceased at Rs.8000/- which in the considered view of this Court is low since the accident happened in the year 2017. However, the deceased was employed in a remote village. If the year of the accident and the fact that the deceased was working in a remote village is taken into consideration, this Court is of the considered view that the Tribunal ought to have fixed the notional monthly income of the deceased at Rs.10,000/- instead of erroneously fixing the same at Rs.8,000/-. Therefore, this Court enhances the notional monthly income of the deceased to Rs.10,000/- instead of Rs.8,000/- erroneously fixed by the Tribunal.

5. The Tribunal has awarded a compensation of Rs.40,000/- towards



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loss of consortium to the wife of the deceased which is a correct assessment.

However, the Tribunal has failed to award any compensation towards parental and filial consortium which the mother and the two children of the deceased are legally entitled to. This Court therefore fixes the parental and filial compensation at Rs.40,000/- each to the mother and two children. Accordingly, this Court awards a compensation of Rs.1,20,000/- towards parental and filial consortium at Rs.40,000/- each to the mother and the two children.

6. Insofar as the compensation awarded by the Tribunal under various other heads namely loss of estate, funeral expenses are concerned, the same is confirmed by this Court as the compensation of Rs.15,000/- each under the said heads is a just compensation.

7. The Tribunal has rightly adopted the 14 multiplier after giving due consideration to the age of the deceased. The Tribunal has also rightly deducted 1/4th towards personal expenses of the deceased as per the settled law. Since this Court has enhanced the monthly income of the deceased



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from Rs.8,000/- to Rs.10,000/-, the compensation payable to the appellants/claimants towards loss of dependency is enhanced from Rs.12,60,000 to Rs.15,75,000/- as detailed hereunder:

$$Rs.10,000/- + 25\% \text{ future prospects } \times 12 = Rs.1,50,000 \text{ (-)}$$

$$\begin{aligned} 1/4\text{th personal expenses- } Rs.37,500/- &= Rs.1,12,500/- \times 14 \times \\ &= Rs.15,75,000/- \end{aligned}$$

8. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.13,30,000/- to Rs.17,65,000/- by this Court as detailed hereunder:

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
Loss of Dependency	12,60,000/- (Rs.8,000 + (25% future prospects 2000 x 12 = Rs.1,20,000 less 1/4th deduction Rs.30000 = 90,000/- x 14)	15,75,000/- (Rs.10,000/- + 25% future prospects x 12 = Rs.1,50,000 (-) 1/4th personal expenses- Rs.37,500/- = Rs.1,12,500/- x 14
Consortium to wife	40,000/-	40,000/-
Parental Consortium	Nil	80,000/- (40,000 x 2)
Filial Consortium	Nil	40,000 /-
Loss of Estate	15,000/-	15,000/-



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Amount awarded by this Court (Rs.)</i>
Funeral Expenses	15,000/-	15,000/-
Total	13,30,000/-	17,65,000/-

9. In the result, this appeal is partly allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The 2nd Respondent/Insurance Company is directed to deposit the modified award amount i.e, **Rs.17,65,000/-** along with interest and costs, after deducting the amount already deposited, if any, to the credit of MCOP.No.673 of 2017 within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of award amount as per the ratio apportioned by the Tribunal to the bank accounts of the Appellants/Claimants along with accrued interest through RTGS within a period of two weeks thereafter. No costs.

10.07.2024

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

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- 1.The Motor Accident Claims Tribunal
District and Sessions Judge, Mahila Court, Perambalur.
- 2.The Section Officer
V.R.Section, High Court of Madras.

ABDUL QUDDHOSE, J.
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