



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.1582 of 2022

1.T.Thaiyalnayagi
2.T.Rajkumar
3.T.Ravikumar

.. Appellants

Vs.

1. V.Parthasarathy
2. The Manager
United India Insurance Co.Ltd.,
Plot No.35,36,37, A.R.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 04.12.2020 made in M.C.O.P.No.67 of 2019 on the file of Motor Accident Claims Tribunal/ (Special Sub Judge, Cuddalore).

For Appellants : Ms.Ramya V.Rao

For Respondents : No appearance (R1)
Mr.M.Krishnamoorthy (R2)



J U D G M E N T

WEB COPY This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 04.12.2020 made in M.C.O.P.No.67 of 2019 on the file of the Motor Accident Claims Tribunal/Special Sub Judge, Cuddalore.

2. The appellants are the claimants 1 to 3 in M.C.O.P.No.67 of 2019 on the file of *Motor Accidents Claims Tribunal/Special Sub Judge, Cuddalore*. They filed the above said claim petition, claiming a sum of **Rs.30,00,000/-** as compensation for the death of one Thirugnanam, who died in an accident that took place on 01.12.2018.

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.19,33,750/-** 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.

WEB COPY

5. The learned counsel appearing for the appellants contended that the deceased Thirugnanam was working as a security in the evening and selling fruits in the morning and was earning a sum of Rs.30,000/- per month but the Tribunal has fixed only a sum of Rs.11,000/- as monthly income while determining the compensation towards Pecuniary Loss and requested this Court to fix the notional income as per *Andal and two others Vs. Avinav Kannan and New India Assurance Company Ltd., Chennai* reported in *2019 (1) TNMAC 54 (DB)*. She further submitted that the compensation awarded towards other heads are also low and the same needs to be enhanced.

6. Per contra, learned counsel appearing for the 2nd respondent-Insurance Company contended that the total compensation awarded by the Tribunal under various heads is not meagre and the appellants have not made out any case for enhancement of compensation. However, he fairly agreed to fix the notional income of the deceased as per *Andal and two others Vs. Avinav Kannan and New India Assurance Company Ltd., Chennai* reported in *2019 (1) TNMAC 54 (DB)*, as prayed for by the learned counsel for the



Appellants.

WEB COPY

7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd 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 48 years and was working as a Security and was also doing fruit business and earning a sum of Rs.30,000/- per month. Though Ex.P10 - Certificate of Business was produced and P.W.3 was examined on the side of the claimants, the Tribunal without considering the same and taking note of age and avocation of the deceased has fixed the monthly income at Rs.11,000/- per month, which in the opinion of this Court is very low and hence this Court decides to apply the cost of inflation index as issued by the Central Board of Direct Tax (CBDT) for the purpose of determination of notional income of the deceased as per the Judgment of this Court in *Andal and two others Vs. Avinav Kannan and New India Assurance Company Ltd., Chennai* reported in *2019 (1) TNMAC 54 (DB)*. By taking note of the same, this Court fixes a sum of Rs.14,562/- (6500x289/129) as



WEB COPY

notional income of the deceased and by adding future prospects @25%, a sum of Rs.17,625/- is arrived and by applying the multiplier 13 a sum of Rs.27,49,500/- (17,625x12x13) is arrived and by deducting 1/4rd towards personal expenses, a sum of **Rs.16,08,750/-** is awarded towards **Pecuniary Loss** and hence the compensation towards Pecuniary Loss is enhanced from Rs.16,08,750/- to Rs.20,62,125/-. The Tribunal awarded a sum of Rs. 2,50,000/- towards **Loss of Love and Affection** to the sons and mother of the deceased and 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 reduced or granted
1.	Pecuniary Loss	16,08,750/-	20,62,125/-	Enhanced
2.	Loss of Love and Affection	2,50,000/-	1,20,000/-	Reduced
3.	Loss of Consortium	40,000/-	40,000/-	Confirmed
4.	Loss of Estate	15,000/-	15,000/-	Confirmed
5.	Funeral Expenses	15,000/-	15,000/-	Confirmed



S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or reduced or granted
6.	Transportation	5,000/-	5,000/-	Confirmed
	Total	Rs.19,33,750/-	Rs.22,57,125/-	Enhanced by Rs.3,23,375 /-

09. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.19,33,750/- is hereby enhanced to Rs.22,57,125/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. Insofar as the compensation awarded by the Tribunal is concerned, all the Claimants are entitled to the compensation as apportionment made by the Tribunal and with respect to enhanced compensation, 1st Appellant/wife alone is entitled to the enhanced compensation of **Rs.3,23,375/-** in addition to her entitlement as awarded by the Tribunal. The 2nd 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.67 of 2019** on the file of the Motor Accidents Claims Tribunal, Special Sub Judge, Cuddalore . On such deposit being made, the



WEB COPY

Tribunal is directed to transfer the Award amount, as apportioned by the Tribunal, directly to the Bank account of the Appellants/Claimants through RTGS, within a period of **three weeks**. 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.

09.01.2024

arr

Index : Yes / No

Internet : Yes / No

To

1. The Manager
United India Insurance Co.Ltd.,
Plot No.35,36,37, A.R.Plaza,
45 Feet Road, Balaji Nagar Extn.
Saram, Puducherry- 605011.
2. The Motor Accident Claims Tribunal,
Special Sub Judge, Cuddalore.
3. The Section Officer,
VR Section,
High Court, Madras.



WEB COPY



C.M.A.No.1582 of 2022

KRISHNAN RAMASAMY, J.

arr

C.M.A.No.1582 of 2022

09.01.2024