



CMA.No.1400 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2024

CORAM:

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

CMA.No.1400 of 2022

1.Chinnapaiyan
2.Nalini
3.Bharathi
4.Vijayan

... Appellants

-Vs-

1.S.Saravanan
2.The United India Insurance Company Limited,
No.134, Silingi Building,
Greams Road,
Chennai – 600 006.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 26.11.2021 and made in MACT.OP.No.1256/2018 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant	: Ms.M.Sunithi Abirami for Mr.K.M.Ramesh
For R1	: Ex-parte Vide order dt.10/11/22
For R2	: Mr.D.Bhaskaran



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JUDGMENT

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Challenging the quantum of compensation awarded by the Tribunal in MACT.OP.No.1256 of 2018, the appellants/claimants have filed the present appeal.

2.The appellants are the claimants in MACT.OP.No.1256 of 2018 on the file of Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai. They filed the above said claim petition, claiming a sum of **Rs.25,00,000/-** as compensation for the death of one Saroja in an accident that took place on 31.12.2017.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the rider of the motorcycle bearing registration No.TN-18-AL-4671 and directed the 2nd respondent-Insurance Company to pay a sum of **Rs.7,38,250/-** as compensation to the appellants.



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4. Not being satisfied with the amounts awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of compensation.

5. The learned counsel for the appellants submitted that the accident occurred on 31.12.2017. At that time, the deceased was a housewife and 57 years of age. For an accident which occurred in the year 2017, in the absence of any proof of income, the Tribunal fixed the notional income of the victim of the accident at Rs.7,500/-, which is on the lower side. In this regard, she referred to the Judgment of the Hon'ble Apex Court, in the case of *Syed Sadiq Vs. United India Insurance Company*, reported in *2014 (1) TNMAC 459 (SC)*, wherein the Apex Court fixed the notional monthly income even for a vegetable vendor at Rs.6,500/-, who sustained injuries in an accident which occurred in the year 2008, by applying the multiplier based on cost inflation index. In the present case, the accident occurred in the year 2017 and hence, appropriate addition has to be made to the notional income of the victim of the accident. Hence, she submitted that a sum of Rs.13,000/- may be fixed as the notional monthly income of the victim of the accident.



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6.She further submitted that no compensation was awarded towards the loss of love and affection to the children of the deceased. She however, fairly submitted that the compensation awarded by the Tribunal towards the funeral expenses and loss of estate is just and fair and that the same may be confirmed.

7.The learned counsel for the second respondent insurance company submitted that a sum of Rs.10,000/- may be fixed as the notional monthly income of the victim of the accident. He further submitted that the compensation awarded by the Tribunal under other heads are just and reasonable and hence, the same may be confirmed.

8.Heard the learned counsel for the appellant and the learned counsel for the respondent insurance company and perused the materials available on record.

9.The fact and manner of the accident is not disputed by the parties. Therefore, this Court is not dealing with the said aspect. The only



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grievance of the appellants is with regard to the quantum of compensation awarded by the Tribunal. In the present case, as noticed above, the deceased was a housewife and aged about 57 years at the time of accident. Hence, this Court, in the light of the law laid down by the Hon'ble Supreme Court in *Syed Sadiq's* case (cited supra) and applying the cost inflation, fixes the notional monthly income of the deceased at Rs.10,500/-. By adding 10% towards future prospects and applying a multiplier of 9 and by deducting 1/3rd towards the personal expenditure of the victim, the loss of income is arrived at;

$$10,500 + 1050 (10\%) = 11550;$$

$$11550 \times \frac{2}{3} \times 9 \times 12 = 8,31,600/-$$

10. Towards loss of love and affection to the children of the deceased ie., appellants 2 to 4, no amount was awarded by the Tribunal. This Court now awards Rs.15,000/- each to the appellants 2 to 4 towards the loss of love and affection. Therefore, under the said head Rs.45,000/- is awarded. As far the compensation awarded by the Tribunal under other heads are concerned, they are just and reasonable and the same stands confirmed. The award of the Tribunal is redetermined as below;



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Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Dependency	6,68,250/-	8,31,600/-	Enhanced
2.	Loss of Estate	15,000/-	15,000/-	Confirmed
3.	Loss of Love and Affection to the 1 st Claimant	40,000/-	40,000/-	Confirmed
4.	Loss of Love and Affection to the Claimants 2 to 4	-	45,000/-	Confirmed
5.	Funeral Expenses	15,000/-	15,000/-	Confirmed
	Grand Total	7,38,250/-	9,46,600/-	Enhanced by 2,08,350/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.7,38,250/- is hereby enhanced to Rs.9,46,600/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. Out of the said award amount, The appellant 2 and 3 are entitled to a sum of Rs.1,50,000/- each. The fourth appellant is entitled to a sum of Rs.1,00,000/-. The first appellant is entitled to a sum of Rs.5,46,600/-.



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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 **MACT.OP.No. 1256 of 2018** on the file of the Motor Accidents Claims Tribunal, the II Court of Small Causes, Chennai. On such deposit being made, the Tribunal is directed to transfer the Award amount, directly to the Bank account of the Appellants/Claimants through RTGS, in the proportion as determined by this Court, 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.

12.Accordingly, the Civil Miscellaneous Appeal is partly allowed.

No costs.

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KRISHNAN RAMASAMY, J.,

Tsg

To

- 1.Motor Accident Claims Tribunal,
II Court of Small Causes, Chennai.
- 2.The Section Officer,
V.R.Section, High Court, Madras.

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