



C.M.A.No.1964 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.06.2024

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THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1964 of 2021

Jyothi Kumar (since deceased)

1.M.Girija

2.M.Janani

3.M.Arjun

4.Srikumari Kaimal

... Appellants

Vs.

1.Indus Pharmaceuticals

Indus House, New No.24/1,

Old No.48, Subramanian Street,

Abbiramapuram, Chennai - 600 018.

2.Royal Sundaram Alliance Gen. Ins. Co. Ltd.,

Subramaniam Buildings, No.1,

Club House Road, Anna Salai,

Chennai - 2.

... Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 13.12.2019 made in M.C.O.P. No.4120 of 2016 on the file of the Motor Vehicle Claims Tribunal / (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai.



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C.M.A.No.1964 of 2018

For Appellants : Ms.Ramya V.Rao
For Respondents : Mr.M.Krishnamoorthy
for R2

No appearance for R1

JUDGMENT

This appeal has been filed by the claimants, seeking enhancement of compensation. The Tribunal under the impugned award has directed the second respondent / Insurance Company to pay the appellants / claimants a compensation of Rs.2,59,500/- for the death of the deceased as a result of an accident caused by a vehicle insured with the second respondent as follows:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>
Loss of Income	40,000
Medical Expenses	2,00,470
Transportation	5,000
Extra Nourishment	10,000
Attender Charges	4,000
Total	2,59,470
Rounded Off to	2,59,500



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2. According to the appellants / claimants, the compensation determined by the Tribunal is not a just compensation and it has to be enhanced. The accident happened on 29.03.2016. The deceased sustained femur bone fracture and one surgery was performed on him. He was hospitalized for a period of 15 days i.e., from 14.04.2016 to 29.04.2016. The nature of injuries sustained by the deceased has not been disputed by the respondents as seen from the evidence available on record before the Tribunal. While the deceased was alive, the claim petition was filed, seeking compensation for the injuries sustained by him. During the pendency of the claim petition, he died. The deceased suffered from chronic kidney disease and coronary artery disease and on that ground, the Tribunal has held that he did not die as a result of an accident caused by a vehicle insured with the second respondent. However, the nature of injuries suffered by the deceased as a result of the accident caused by a vehicle insured with the second respondent has not been disputed by the second respondent. Admittedly, the deceased was hospitalized for a period of 15 days i.e., from 14.04.2016 to 29.04.2016 and he underwent a surgery due to the femur bone fracture sustained by him.



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3. The deceased in his claim petition, filed when he was alive, had disclosed that he was a photographer. The Tribunal has determined his notional monthly income at Rs.10,000/- and has awarded loss of income to him for a period of four months as a result of the injuries sustained by him due to an accident caused by a vehicle insured with the second respondent.

4. The learned counsel for the second respondent would submit that only based on the evidence available on record, the Tribunal has rightly determined the loss of income for the deceased at four months and has rightly awarded a compensation of Rs.40,000/- towards loss of income calculated at Rs.10,000/- per month for a period of four months. However, this Court is of the considered view that as a photographer, that too when he has sustained grievous injuries viz., femur bone fracture and was also hospitalized for a period of 15 days i.e., from 14.04.2016 to 29.04.2016, the loss of income assessed by the Tribunal for the period of four months is too low and it has to be enhanced.

5. This Court, after giving due consideration to the evidence available



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on record and after giving due consideration to the age of the deceased as well as his avocation and the seriousness of the injury, is of the considered view that the loss of income will have to be calculated for a period of eight months instead of four months erroneously determined by the Tribunal. However, the notional monthly income fixed by the Tribunal at Rs.10,000/- is a correct assessment. Accordingly, the compensation towards loss of income is enhanced from Rs.40,000/- to Rs.80,000/- at Rs.10,000/- per month for a period of eight months.

6. In so far as the compensation awarded by the Tribunal towards medical expenses at Rs.2,00,470/- is concerned, the Tribunal has rightly awarded the said sum based on the medical bills produced by the appellants / claimants. There is no question of interference by this Court with regard to the said claim.

7. In so far as the compensation awarded by the Tribunal towards transportation and attender charges are concerned, this Court is of the considered view that the compensation awarded by the Tribunal towards transportation at Rs.5,000/- and towards attender charges at Rs.4,000/- are



low and they have to be enhanced, considering the nature of injuries sustained by the deceased as well as the period of his hospitalization. This Court enhances the compensation towards transportation and attender charges from Rs.5,000/- and Rs.4,000/- to Rs.15,000/- and Rs.15,000/- respectively.

8. In so far as the compensation awarded by the Tribunal towards extra nourishment charges at Rs.10,000/- is concerned, this Court is of the considered view that the same is a just compensation and there is no scope for any further interference by this Court.

9. For the foregoing reasons, the compensation payable by the respondents is re-worked in the following manner:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>	<i>Amount awarded by this Court in Rs.</i>
Loss of Income	40,000	80,000
Medical Expenses	2,00,470	2,00,470
Transportation	5,000	15,000
Extra Nourishment	10,000	10,000
Attender Charges	4,000	15,000
Total	2,59,470	3,20,470
Rounded Off to	2,59,500	3,20,500



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10. In the result, this Civil Miscellaneous Appeal is **partly allowed** by enhancing the award amount from **Rs.2,59,500/-** to **Rs.3,20,500/-**. The second respondent/insurance company is directed to deposit the enhanced award amount of **Rs.3,20,500/-**, after deducting the amount already deposited, if any, together with interest at the rate of **7.5%** per annum from the date of the claim petition till the date of deposit and cost to the credit of **M.C.O.P. No.4120 of 2016** on the file of the **Motor Vehicle Claims Tribunal / (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai**, within a period of **six weeks** from the date of receipt of a copy of this judgment.

11. The appellants / claimants are permitted to withdraw the said amount, once it is deposited by the second respondent/Insurance Company, by filing an appropriate application. On such application being made, the Tribunal shall transfer the amount lying to the credit of **M.C.O.P. No.4120 of 2016** to the bank account of the appellants directly through RTGS / NEFT, within a period of **one week** thereafter. No costs.

04.06.2024



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Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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C.M.A.No.1964 of 2021

ABDUL QUDDHOSE. J.,

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To

1. The Motor Vehicle Claims Tribunal / (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai.
2. The Section officer, Record Section, High Court of Madras.

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