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C.M.A.No.2525 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 12.02.2024**

CORAM :

**The Hon'ble Mr. Justice Krishnan Ramasamy**

**C.M.A.No.2525 of 2023**

1. K.Kousalya

2. Minor K.Ramya

3. Minor K.Yogi

Rep. by its next friend S/o.K.Ramu  
natural guardian K.Kousalya @ Anjali,  
the first appellant herein

4. K.Raniamma

... Appellants

Vs.

1. P.Rama Naidu

2. The Manager,

Shri Ram General Insurance Co. Ltd.,  
No.19.03.2013 (M), 3<sup>rd</sup> Floor, Renigunta Road,  
Thirupathi, Andhara Pradesh 517 501.

... Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Judgment and Decree made in M.C.O.P.No.68/2013 dated 13.11.2018 on the file of the Sub Judge, Thiruttani/Motor Accident Claims Tribunal, Thiruttani.

|                |                                               |
|----------------|-----------------------------------------------|
| For Appellants | : Mr.K.R.Ponnusamy<br>for Mr.Anand and Suryas |
| For R1         | : Dispensed with                              |
| For R2         | : Mr.S.Dhakshnamoorthy                        |



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### **JUDGEMENT**

This Civil Miscellaneous Appeal has been filed, challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Sub Judge, Thiruttani in M.C.O.P.No.68 of 2013 dated 13.11.2018.

2. On 24.03.2012 at about 9.00 p.m., when the driver of the Tractor & Trailer bearing Reg.No.AP-03-TB-0034 and AP-03-TB-0035, was turning the vehicle towards right from Renigunta side to Chenchulakshmi colony at Gopalapillai cross, in a rash and negligent manner, and due to which, the vehicle fell down into a deep pit. Due to said accident, a cooli Mr.K.Ramu, who is the husband of the first appellant, who was travelling in the trailer, sustained fatal injuries and died on the spot. Hence, the appellants being wife, children and mother of the deceased, made a claim petition before the Tribunal, claiming a compensation of Rs.20,00,000/-.

3. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.15,44,200/- towards compensation to the appellants. Being not satisfied with the same, the appellants have filed the present appeal.



4. The learned counsel for the appellants submitted that, at the time of accident, the deceased was working as a coolie and earning a sum of Rs.10,000/- per month. Without considering the same, the Tribunal had erroneously fixed the notional monthly income of the deceased at Rs.6,500/-, which is very meager, and the same may be re-considered by this Court. Apart from that, no amount has been awarded under the head of “loss of love and affection”, and “transportation”, and the same may be awarded by this Court. Accordingly, he prays for appropriate enhancement in favour of the appellants.

5. The learned counsel for the second respondent/Insurance Company would fairly submit that reasonable compensation may be granted by fixing fair amount towards “loss of love and affection”.

6. Heard the learned counsel for the appellants and the learned counsel on behalf of the second respondent and perused the materials available on record.

7. 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 grievance of the appellants is with regard to the quantum of compensation awarded by the



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Tribunal. It is claimed by the appellants that though the deceased was aged

about 24 years, and earning a sum of Rs.10,000/- as his monthly income, the

Tribunal, without considering the same, had fixed the notional income at

Rs.6,500/- per month. Taking into consideration that the deceased was working

as a Coolie at the time of accident, and applying the ratio laid down by the 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 the accident occurred in the year 2008, by applying the

multiplier based on cost inflation index, in the absence of any proof for income,

it would come more than a sum of Rs.13,000/-. Hence, this Court feels it

appropriate to fix the notional income of the deceased at Rs.9,000/- per month.

Adding future prospects at 40%, as has been held by the Constitution Bench of

the Apex Court, the total income per month is quantified at Rs.12,600/-.

Deducting 1/4<sup>th</sup> towards the personal expenses of the deceased, the loss of

income to the family is arrived at Rs.9,450/- per month and the deceased was

aged about 24 years at the time of accident, as evidenced from the records, and

adopting the multiplier '18' as per the decision of the Apex Court, the loss of

financial dependency to the family is arrived at Rs.9,450/-

$\times 12 \times 18 = \text{Rs.}20,41,200/-$ , which is worked as follows:-



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| <i>Loss of Income</i>                                                               | <i>Amount in Rs.</i> |
|-------------------------------------------------------------------------------------|----------------------|
| Notional income (Per month)                                                         | 9,000                |
| <b>Add:</b> Future Prospects (Rs.9,000 x 40%) (Per month)                           | 3,600                |
|                                                                                     | 12,600               |
| <b>Less:</b> Personal expenses (1/4 <sup>th</sup> ) (Rs.12,600/- x 1/4) (Per month) | 3,150                |
|                                                                                     | 9,450                |
| Notional income (per annum) (Rs.9,450/- x 12)                                       | 1,13,400             |
| Multiplier                                                                          | 18                   |
| <b>Total</b>                                                                        | <b>20,41,200</b>     |

8. Consequently, the sum of **Rs.14,74,200/-** awarded by the Tribunal under the head of “Loss of Financial Dependency” is hereby modified and enhanced to **Rs.20,41,200/-**. Further, this Court finds that the Tribunal has failed to award any compensation under the heads of “loss of love and affection” and “transportation”. Hence, this Court is inclined to award a sum of Rs.40,000/- each to the appellants 2 to 4 towards “loss of love and affection” and a sum of Rs.10,000/- towards “transportation” respectively.

9. Insofar as the compensation awarded by the Tribunal under other heads viz. “loss of consortium”, “funeral expenses” and “loss of estate” is



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concerned, this Court finds the same to be just and proper and are hereby confirmed.

10. Thus, the total compensation payable to the appellants/claimants under various Heads is as hereunder:-

| <i><b>Heads</b></i>                                   | <i><b>Awarded by the Tribunal<br/>(Amount in Rs.)</b></i> | <i><b>Awarded by this Court (Amount in Rs.)</b></i> |
|-------------------------------------------------------|-----------------------------------------------------------|-----------------------------------------------------|
| Loss of Financial Dependency to the family            | <b>14,72,200/-</b>                                        | <b>20,41,200/-<br/>(enhanced)</b>                   |
| Loss of Consortium                                    | 40,000/-                                                  | 40,000/-                                            |
| Funeral expenses                                      | 15,000/-                                                  | 15,000/-                                            |
| Loss of Estate                                        | 15,000/-                                                  | 15,000/-                                            |
| Loss of love and affection (to the appellants 2 to 4) | <b>Nil</b>                                                | <b>1,20,000/-</b>                                   |
| Transportation                                        | <b>Nil</b>                                                | <b>10,000/-</b>                                     |
| Total                                                 | <b>15,44,200/-</b>                                        | <b>22,41,200/-</b>                                  |

11. Consequently, the total compensation amount of **Rs.15,44,200/-** awarded by the Tribunal is hereby modified and enhanced to **Rs.22,41,200/-**, which shall carry interest at the rate of **7.5%** per annum from the date of claim petition till the date of deposit, out of which, first appellant, the wife of the deceased is entitled to a sum of **Rs.10,00,000/-** together with proportionate interest; second and third appellants, minor children of the deceased are entitled



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to a sum of **Rs.5,00,000/-** each. The amount due to the minors shall be deposited in a cumulative interest bearing deposit in a Nationalized Bank, till the minors attain majority, and fourth appellant, the mother of the deceased is entitled to a sum of **Rs.2,41,200/-**.

12. In the result, this Civil Miscellaneous Appeal filed by the appellants/claimants is partly allowed on the following terms:-

(i) The second respondent, Insurance Company is directed to deposit the entire amount awarded by this Court along with interest at the rate of 7.5 % p.a., and costs before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment, after deducting the amount already deposited, if any.

(ii) On such deposit being made by the second respondent/Insurance Company, the Tribunal shall transfer the amount directly to the claimants' respective bank accounts through RTGS within a period of three weeks thereon.

(iii) The appellants/claimants are entitled to withdraw the entire award amount, less the amount already withdrawn, if any, by making necessary



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application before the Tribunal.

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iv) The appellants/claimants are directed to pay the court fee for the enhanced compensation, if any.

v) There shall be no order as to costs.

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Index : Yes / No

NCC : Yes / No

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To

1. The Motor Accident Claims Tribunal,  
Sub Judge, Thiruttani.

2. The Section Officer,  
V.R. Section,  
High Court, Madras.



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**Krishnan Ramasamy,J.,**

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