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C.M.A.No.2275 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 18.04.2024

CORAM:

**THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE**

**C.M.A. No.2275 of 2021**

1.A.Jayapriya  
2.S.Sagayarani

.. Appellants

Vs.

1.D.Lalitha  
2.The National Insurance Company Limited,  
Papakurichi B.Krishna Complex,  
Malaiyappa Nagar,  
Tanjavur Main Road,  
Papakurichi, Trichirapalli District.  
3.The National Insurance Company Limited,  
Selvanayagi Complex,  
Perundurai Road,  
Near to District Collector Office,  
Erode - 638 011.

.. Respondents

**Prayer:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 15.10.2020 made in M.C.O.P. No.518 of 2018 on the file of the Motor Accidents Claims Tribunal and Special District Court, Erode.

For Appellants : Mr.S.P.Yuaraj

For Respondents : Mr.D.Bhaskaran for R2 & R3

**JUDGMENT**



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**WEB COPY** This appeal has been filed by the appellants/claimants seeking enhancement of compensation.

2.The Tribunal under the impugned Award, has determined the compensation payable to the appellants/claimants at Rs.20,13,932/-, which has been restricted to Rs.10,00,000/- since the appellants/claimants have themselves claimed only a sum of Rs.10,00,000/- as compensation in their Claim Petition. The total compensation awarded by the Tribunal is detailed hereunder:

| <b>S.Nos.</b> | <b>Heads</b>                                                                                                                                                     | <b>Amounts awarded by the Tribunal</b> |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| 1.            | Loss of income<br>$10000 \times 40/100 = 4000$<br>$10000 + 4000 = 14000 \times 1/3 = 4667$<br>$14000 - 4667 = 9333 \times 12 \times 17 = \text{Rs.} 19,03,932/-$ | Rs.19,03,932.00                        |
| 2.            | Funeral expenses                                                                                                                                                 | Rs. 15,000.00                          |
| 3.            | Loss of estate                                                                                                                                                   | Rs. 15,000.00                          |
| 4.            | Loss of love and affection                                                                                                                                       | Rs. 40,000.00                          |
| 5.            | Consortium                                                                                                                                                       | Rs. 40,000.00                          |
|               | Total                                                                                                                                                            | Rs.20,13,932.00                        |



3.The respondents have not challenged the impugned Award and therefore, the findings of the Tribunal as against them has now attained finality.

4.Apart from the enhancement of compensation from Rs.10,00,000/- to Rs.20,13,932/-, the appellants/claimants are also seeking further enhancement on the ground that the notional income fixed by the Tribunal under the impugned Award for the deceased at Rs.10,000/- is low considering the year of the accident, which happened in the year 2017. The Tribunal under the impugned award has assessed the notional monthly income of the deceased at Rs.10,000/-. The appellants/claimants had pleaded in their Claim Petition that the deceased was a Mason. Even though no documentary evidence was placed by the appellants/claimants before the Tribunal to prove the monthly income of the deceased, considering the year of the accident and the avocation of the deceased at the time of the accident, the notional monthly income fixed by the Tribunal is low. Necessarily, it has to be enhanced by this Court.

5.This Court, after giving due consideration to the avocation of the



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deceased and the year of the accident, enhances the notional monthly income of the deceased from Rs.10,000/- fixed by the Tribunal to Rs.12,000/-. The overall compensation awarded by the Tribunal under various other heads is a just compensation and the same does not call for any interference by this Court. However, the Tribunal has erroneously granted interest at the rate of 9% per annum. This Court fixes the interest at the rate of 7.5% per annum, which is the settled practice.

6.For the foregoing reasons, the Award of the Tribunal is enhanced by this Court from Rs.10,00,000/- to Rs.23,94,800/- as detailed hereunder:

| S.Nos. | Heads                                                                                                                                                             | Amount awarded by this Court |
|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1.     | Loss of income<br>$12000 \times 40/100 = 4800$<br>$12000 + 4800 = 16800 \times 1/3 = 5600$<br>$16800 - 5600 = 11200 \times 12 \times 17 = \text{Rs.} 22,84,800/-$ | Rs.22,84,800.00              |
| 2.     | Funeral expenses                                                                                                                                                  | Rs. 15,000.00                |
| 3.     | Loss of estate                                                                                                                                                    | Rs. 15,000.00                |
| 4.     | Loss of love and affection                                                                                                                                        | Rs. 40,000.00                |
| 5.     | Consortium                                                                                                                                                        | Rs. 40,000.00                |
|        | Total                                                                                                                                                             | Rs.23,94,800.00              |

7.Accordingly, this Civil Miscellaneous Appeal is partly allowed by



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enhancing the award amount. The second respondent/insurance company is directed to deposit the enhanced award amount of Rs.23,94,800/-, 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.518 of 2018 on the file of the Motor Accidents Claims Tribunal, Erode, within a period four weeks from the date of receipt of a copy of this judgment.

8.The appellants/claimants are permitted to withdraw the said amount as apportioned by the Tribunal, once it is deposited by the second respondent/Insurance Company, by filing their appropriate applications. On such applications being made, the Tribunal shall transfer the amount lying to the credit of M.C.O.P. No.518 of 2018 to the bank account of the appellants/claimants directly through RTGS, within a period of one week thereafter. No costs.

18.04.2024

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**ABDUL QUDDHOSE, J.**

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To

- 1.The Motor Accidents Claims Tribunal,  
Special District Court, Erode.
- 2.The Section Officer,  
V.R. Section,  
High Court, Madras.

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**18.04.2024**