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C.M.A.No.1333 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2024

CORAM

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.1333 of 2022

1.Nagamani Devi

2.J.Kanda Monoharan

3.J.Vijayakumar

4.J.Muthukumar

...Appellants

Vs.

1.Balasubramaniyan

2.The United India Insurance Company,

Having Branch at No.50-A,
Pallivasal Street, Perambalur

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount made in judgment and decree dated 19.01.2022 made in M.C.O.P.No.357 of 2017 on the file of the Motor Accident Claims Tribunal and Principal District Judge, Perambalur by allowing this Civil Miscellaneous Appeal.

For Appellants : Mr.S.P.Yuvaraj

For R1 : No appearance

For R2 : Mr.J.Chandran



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JUDGMENT

Challenge made in this Civil Miscellaneous Appeal is against the quantum of compensation awarded by the Motor Accident Claims Tribunal and Principal District Judge, Perambalur in M.C.O.P.No.357 of 2017.

2. The Tribunal has awarded the compensation as under:-

Annual Income	=Rs.36,462 + 10,939 (30% future prospects) x 12 = Rs.5,68,812/-
After Deducting 1/3 rd	= Rs.3,79,208/-
Applying Multiplier	= Rs.3,79,208 x 7 = Rs.26,54,456/-
Loss of Dependency	=Rs.26,54,456/-
Loss of Estate	=Rs.15,000/-
Funeral Expenses	=Rs.15,000/-
Total	Rs.26,84,456/-

3. The learned counsel appearing for the appellants would submit that the Tribunal while determining the annual income of the deceased, has rightly taken the income, a sum of Rs.36,462/- + 30% future prospects per month. However, while applying the multiplier, the Tribunal applied the multiplier of '7'. The Tribunal fixed the age as 46 years. For the age group of 46 years, the



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right multiplier is '13'. The said aspect also confirmed by the learned counsel appearing for the Insurance Company before this Court.

4. Apart from the above, the learned counsel submits that the Tribunal has not awarded any amount to the mother of the deceased, who is the first claimant/1st appellant herein, towards love and affection. Apart from that no amount was awarded against the transportation charges. Therefore, he pleaded before this Court to modify the award passed by the Tribunal.

5. The learned counsel appearing for the second respondent/Insurance Company fairly submits that the multiplier applicable in the present case is '13' as contended by the learned counsel for the appellants and he submits that no amount was awarded for love and affection for mother and also no amount was awarded for transportation. Therefore, he submits that a suitable amount may be awarded under the said head. With regard to other heads, he submits that the same may be confirmed.

6. I have heard the learned counsel appearing for the Claimants as



well as the Insurance Company and also perused the materials available on record.

7. In the present case, the accident occurred on 12.02.2017 and the date of birth of the deceased was 20.06.1971. Therefore, at the time of the accident, the age of the deceased was 45 years and 7 months and therefore, the multiplier applicable in the present case as rightly contended by the learned counsel for the respondent is '13'. Though, the Tribunal had correctly arrived at a sum of Rs.5,68,812/- towards yearly income plus future prospects, but committed a mistake in application of the multiplier and they have rightly deducted $1/3^{\text{rd}}$ towards personal expenditure of the deceased. After deducting $1/3^{\text{rd}}$, loss of income per month would be a sum of Rs.3,79,208/-. So by applying the multiplier of '13', the loss of income would be a sum of Rs.49,29,704/-. At the time of death, the deceased was married. It is to be noted that both the wife and two children had also passed away in the accident and therefore, he cannot be taken as an independent person. The $1/3^{\text{rd}}$ deduction is just and fair and therefore, I do not find any substance in the submission made by the learned counsel for the respondent.



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8. Admittedly, no amount was awarded towards love and affection to the mother. Therefore, this Court is inclined to award a sum of Rs.40,000/- for love and affection to the mother. Further, no amount was awarded towards transportation. Therefore, this Court is inclined to award a sum of Rs.10,000/- for transportation. Accordingly, the award of the Tribunal is modified as follows:

<i>S.No</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Dependency	26,54,456	49,29,704
2	Loss of love and affection to the mother	Nil	40000
3	Transportation	Nil	10,000
4	Loss of Estate	15000	20000
5	Funeral Expenses	15000	20000
	Total	29,84,456	50,19,704

Therefore, the award of the Tribunal is enhanced from 26,84,456/- to Rs.50,19,704/-.

9. The award amount shall be apportioned to the claimants as below:



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First claimant (mother) Rs.41,19,704/- and the claimants 2 to 4 (brothers) each Rs.3,00,000/-. The claimants are permitted to withdraw the award amount as per the proportion mentioned above.

10. In the result, this ***Civil Miscellaneous Appeal is partly allowed*** and the second respondent/Insurance Company is directed to deposit the entire compensation amount as determined before this Court, after deducting the amount if any already deposited before the Tribunal along with interest at the rate of 7.5%, thereof within a period of eight weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.359 of 2017 on the file of the Motor Accident Claims Tribunal and Principal District Judge, Perambalur. The Tribunal is directed to transfer the entire amount to the respective claimants by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained for the claimants or application for withdrawal from the claimants, whichever is earlier. The claimants are directed to pay the Court fee if any payable. Consequently, the connected miscellaneous petition is also closed. No costs.

04.01.2024



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Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order
rpl

To:

Motor Accident Claims Tribunal and Principal District Judge, Perambalur



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KRISHNAN RAMASAMY,J.

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