



C.M.A.No.1670 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2024

C O R A M

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

C.M.A.No.1670 of 2022

1.Sujatha
2.Snega
3.Sindhu
4.Chinnakuzhandhai

...Appellant

Vs

1.S.Murali
2.The National Insurance Company Limited,
TP HUB, III Floor,
(Behind Bank of America),
No.751, Anna Salai,
Chennai 600 002.

... Respondents

[****Cause title accepted vide order dated
05.07.2022 in C.M.P.No.10370 of 2022 in
CMA.Sr.No.62721 of 2022]

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to modify the fair and decretal order dated 04.04.2019 passed in MCOP.No.81 of 2012 by the learned Subordinate Judge, Motor



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Accident Claims Tribunal, Madurantakam and enhance the compensation amount.

For Appellant : Mr.S.S.Swaminathan

For Respondents : Ms.R.Sree Vidhya for R2

JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgement dated 04.04.2017 in MCOP.No.81 of 2012.

2. The learned counsel for the appellants would submit that on 07.05.2012 when the deceased was walking along the left side of GST road near Mamandoor, a lorry bearing Registration No.TN-45-B-0909 came in a rash and negligent manner and dashed against the deceased, due to which he died on the way to the hospital. Considering all the aspect the Tribunal had awarded the following compensation:



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<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of income of the deceased	10,12,500
2	Loss of Consortium	40,000
3	Loss of Estate	15,000
4	Funeral Expenses	15,000
	Total	10,82,500

3. Further, he would submit that while determining the loss of income, the Tribunal had taken only a sum of Rs.6,000/- as notional income of the deceased, which is on lower side. Hence, he requests this Court to fix the notional income as a sum of Rs.15,000/- since at the time of accident, the deceased was aged about 44 years and was working as a contract labour in Pepsico.

4. In reply, the learned counsel for the respondent would submit that it will be just and reasonable to fix a sum of Rs.9,000/- as notional income of the deceased.

5. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.

6. In the present case, considering the year of accident and nature of



employment of the deceased, this Court is inclined to fix a sum of Rs.10,000/- as notional income of the deceased. Further, it appears the Tribunal had wrongly applied the multiplier as '15' instead of '14'. Hence, by adding 25% as future prospects and deducting 1/4 towards the personal expenses of the deceased, the loss of dependency shall be calculated as follows:

$$\text{Rs.10,000 (notional income) + Rs.2,500 (future prospects 25\%)} \\ *14 \text{ (multiplier)} *12 \text{ (months)} * 3/4 \text{ (dependency)} = \text{Rs.15,75,000/-}$$

7. Further, it appears that the Tribunal had not awarded any compensation under the head “loss of Love and affection”. Hence, this Court is inclined to award a sum of Rs.1,20,000/- (Rs.40,000 each) to the appellants. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of income	10,12,500	15,75,000
2	Funeral Expenses	15,000	15,000
3	Loss of Estate	15,000	15,000
4	Loss of Consortium for 1 st appellant	40,000	40,000



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S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
5	Loss of Love and Affection for appellants 2 to 4	Nil	1,20,000 (40,000 each)
	Total	10,82,500	17,65,000

8. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.17,65,000/-. Accordingly, the award amount stands increased from a sum of Rs.10,82,500/- to Rs.17,65,000/-. In all other aspects, the award of the Tribunal stands confirmed.

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent/insurance company is directed to deposit a sum of Rs.17,65,000/- 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 MCOP.No.81 of 2012 on the file of the Subordinate Judge, Motor Accident Claims Tribunal, Madurantakam. Upon such deposit, the Tribunal is directed to transfer the entire amount to the respective bank accounts



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of the appellants, as per the proportion determined by this Court, 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 claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

12.01.2024

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

nsa

To:

The Motor Accident Claims Tribunal,
Principal District and Sessions Court,
Thiruvarur.



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KRISHNAN RAMASAMY,J.

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