



C.M.A.No.2282 of 2021

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 11.07.2024

CORAM

THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

C.M.A.No.2282 of 2021

1.Malli
2.Panjali
3.Minor Boopathi

.. Appellants

Vs

1.D.Venkatappa
2.The Divisional Manager,
New India Assurance Company Ltd.,
Hosur,
Krishnagiri District - 635 109.

.. Respondents

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 26.11.2020 passed in M.C.O.P.No.576 of 2019, on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

For Appellants : Mr.S.P.Yuvraj
For R2 : Mr.M.Krishnamoorthy
R1 – dispensed with



C.M.A.No.2282 of 2021

JUDGMENT

WEB COPY

This appeal has been filed by the claimants/appellants seeking for enhancement of compensation.

2. The appellants are the dependents of the deceased Aravindhana, who died as a result of an accident caused by a vehicle insured with the second respondent Insurance Company. The deceased was a pillion rider in a motorcycle and was aged about 18 years at the time of the accident. The claimants have pleaded in their claim petition that the deceased was a construction worker. The accident happened in the year 2018. The Tribunal has fixed the notional monthly income of the deceased at Rs.8,000/-, which, in the considered view of the Court, is low. The Tribunal ought to have taken into consideration the year of the accident and fixed the notional monthly income of the deceased at Rs.13,000/-. Accordingly, this Court enhances the notional monthly income of the deceased from Rs.8,000/- to Rs.13,000/-.

3. The Tribunal has rightly awarded 40% towards loss of future prospects and has also rightly deducted 50% towards personal expenses of the deceased, since the deceased was a bachelor at the time of the



C.M.A.No.2282 of 2021

accident. However, since the notional monthly income of the deceased is enhanced to Rs.13,000/- by this Court, the compensation payable to the claimants towards loss of income is re-determined as detailed hereunder:-

Monthly income	-- Rs.13,000/-
40% of future prospects	-- Rs.5,200/-
Total	-- Rs.18,200/-
(-) 50% towards personal expenses	-- Rs.9,100/-

Loss of income	
= 9100 x 12 x 18	-- Rs.19,65,600/-

4. The claimants are the parents and brother of the deceased. As parents of the deceased, each of them are entitled to Rs.40,000/- towards loss of love and affection. But, brother of the deceased, who was a minor at the time of death of the deceased, cannot be paid Rs.40,000/- towards loss of love and affection as fixed for the parents. The Tribunal has committed an error in awarding equal compensation to the brother of the deceased towards loss of love and affection as that of the parents. This Court deems fit to award Rs.20,000/- towards of loss of love and affection to the brother of the deceased instead of Rs.40,000/- erroneously awarded by the Tribunal. Accordingly, the compensation awarded by the Tribunal towards loss of love and affection at Rs.1,20,000/- is reduced to



C.M.A.No.2282 of 2021

Rs.1,00,000/- by this Court.

WEB COPY

5. The Tribunal has rightly awarded a compensation of Rs.15,000/- each towards funeral expenses and loss of estate, and the same is confirmed by this Court. The Tribunal has awarded a compensation of Rs.3,07,300/- towards medical expenses, which is supported by medical bills, and the same is confirmed by this Court, as there is no scope for further enhancement.

6. Admittedly, the deceased was a pillion rider in a motorcycle when the accident had happened. It is also admitted fact that the rider of the motorcycle did not possess valid driving license at the time of the accident. Both rider and pillion rider of the motorcycle did not wear helmet at the time of the accident. The Tribunal has fixed 10% contributory negligence on the part of the deceased, since the rider of the motorcycle was not possessing valid driving license at the time of the accident. This Court, after giving due consideration to the evidence available on record, is of the considered view that fixing of 10% contributory negligence on the part of the deceased is a correct assessment made by the Tribunal and accordingly, the same is confirmed



C.M.A.No.2282 of 2021

by this Court.

WEB COPY

7. For the foregoing reasons, the award passed by the Tribunal is re-worked in the following manner:-

Loss of income	- Rs.19,65,600/-
Loss of estate	- Rs.15,000/-
Funeral expenses	- Rs.15,000/-
Loss of love and affection	- Rs.1,00,000/-
Medical expenses	- Rs.3,07,300/-
Total	- Rs.24,02,900/-

8. In the result, the Civil Miscellaneous Appeal is partly allowed and the impugned award passed by the Tribunal in M.C.O.P.No.576 of 2019, dated 26.11.2020, is modified by directing the second respondent Insurance Company to deposit 90% of the award amount, i.e., Rs.21,62,610/- together with interest at 7.5% per annum from the date of claim petition till the date of realization, to the credit of M.C.O.P.No.576 of 2019 on the file of Motor Accident Claims Tribunal, Special District Court, Krishnagiri, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said



C.M.A.No.2282 of 2021

sum along with accrued interest therein through RTGS/NEFT transfer to the bank account of the claimants as apportioned by the Tribunal. No

Costs.

11.07.2024

Index: yes/no

Neutral citation: yes/no
rkm



C.M.A.No.2282 of 2021

To
WEB COPY

Motor Accident Claims Tribunal,
Special District Court,
Krishnagiri.

ABDUL QUDDHOSE,J.

rkm



WEB COPY



C.M.A.No.2282 of 2021

C.M.A.No.2282 of
2021

11.07.2024