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C.M.A.No.2886 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2886 of 2021

1.S.Babu
2.S.Raghavendran
3.Minor B.Nandhakumar
4.Minor B.Chithra
(Minor petitioners 3 and 4 are represented
by father and guardian Tr.S.Babu)

... Appellants

Vs.

1.Prabhu

2. The National Insurance Company Ltd.,
No.45, 1st Floor,
Moore Street,
Chennai - 600 001.

... Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the Judgment and Decree dated 23.01.2020 made in M.C.O.P. No.281 of 2018 on the file of the Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee.

For Appellants : Ms.M.Malar

For Respondents : Mr.S.Arunkumar
for R2

R1 - NDW vide SR-67913

**JUDGMENT**

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<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>
Loss of dependency (Rs.9,000/- + 40% x12x15x1/4)	17,01,000
Loss of consortium	40,000
Loss of love and affection (Rs.25,000/- x 3)	75,000
Conventional heads	30,000
Total	18,46,000

2. The deceased was a Mason at the time of the accident, which happened on 07.04.2018. The Tribunal has fixed his notional monthly income at Rs.9,000/-. No contra evidence has been produced by the respondents to disprove the avocation of the deceased. This Court is of the considered view that for an accident that happened in the year 2018, the fixation of the notional monthly income of the deceased, who was a Mason at Rs.9,000/- is low and it has to be enhanced to Rs.10,000/-. The Tribunal has adopted the correct multiplier and has also made the correct deduction



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towards personal expenses of the deceased. The Tribunal has also made 40% towards loss of future prospects in accordance with the settled law.

Excepting for modifying the assessment of the notional monthly income of the deceased from Rs.9,000/- to Rs.10,000/-, the other components for the purpose of calculating the loss of dependency does not require for any interference. By enhancing the notional monthly income from Rs.9,000/- to Rs.10,000/- the compensation towards loss of dependency payable to the appellants/claimants is re-worked and works out to Rs.18,90,000/-.

3. The Tribunal has erroneously awarded a lesser compensation towards loss of love and affection at Rs.75,000/-. As per the decision of the Hon'ble Supreme Court in the case of *National Insurance Company Limited Vs. Pranay Sethi and Others* reported in **2017 (16) SCC 680** each of the dependents are entitled to Rs.40,000/- as compensation towards loss of love and affection. There are three dependents for the deceased. Accordingly, the compensation towards loss of love and affection is enhanced from Rs.75,000/- to Rs.1,20,000/-.



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4. Insofar as the compensation awarded by the Tribunal towards loss of consortium at Rs.40,000/- and compensation towards conventional heads at Rs.30,000/- are concerned, the same does not call for any interference by this Court.

5. For the foregoing reasons, the compensation payable by the second respondent Insurance Company is re-worked in the following manner:

<i>Heads</i>	<i>Amount awarded by the Tribunal in Rs.</i>	<i>Amount awarded by this Court in Rs.</i>
Loss of dependency (Rs.9,000/- + 40% x12x15x1/4)	17,01,000	18,90,000
Loss of consortium	40,000	40,000
Loss of love and affection (Rs.25,000/- x 3)	75,000	1,20,000
Conventional heads	30,000	30,000
Total	18,46,000	20,80,000/-

6. In the result, this Civil Miscellaneous Appeal is **partly allowed** by enhancing the award amount from **Rs.18,46,000/-** to **Rs.20,80,000/-**. The second respondent/insurance company is directed to deposit the enhanced award amount of **Rs.20,80,000/-**, after deducting the amount already deposited, if any, together with interest at the rate of **7.5%** per annum from



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the date of the claim petition till the date of deposit and cost to the credit of

M.C.O.P. No.281 of 2018 on the file of the **Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee**, within a period of **four weeks** from the date of receipt of a copy of this judgment.

7. The appellants / claimants are permitted to withdraw the said amount, once it is deposited by the second respondent / Insurance Company, by filing an appropriate application. On such application being made, the Tribunal shall transfer the amount lying to the credit of **M.C.O.P. No.281 of 2018** to the bank account of the appellant directly through NEFT / RTGS, within a period of **one week** thereafter. No costs.

10.06.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

1. The Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee.

2. The Section officer, Record Section, High Court of Madras.



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ABDUL QUDDHOSE. J.,

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