



C.M.A.No.2405 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 09.01.2024	Pronounced on 19.01.2024
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

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1.Ammu, F/37 yrs
Wife of Paranthaman

2.Paranthaman, M/40 yrs
Son of Gopal Naidu

3.Minor Aakash, M/15 yrs
Son of Paranthaman
Represented by
Next Friend/Natural Guardian Mother
1st Appellant Ammu

All are residing at
Uchimalaikuppam Village
Pachal Post
Chengam Taluk
Tiruvannamalai District

... Appellants

Vs.

1.Gowri
Wife of Jayakumar
No.32, Parvathi Nagar
Thandrapet Road
Tiruvannamalai



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2.Divisional Manager

The New India Assurance Company Limited

No.19, Officer Lane, Vellore

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 to enhance the compensation amount awarded in the Judgment and Decree dated 18.12.2020 made in MCOP.No.810 of 2019 on the file of the Special Motor Accident Claims Tribunal Judge/the Special Sub Judge (MCOP), Tiruvannamalai.

For Appellants : Mr.S.Panneer Selvam

For Respondents : Mr.M.Krishnamoorthy (for R2)

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 18.12.2020 made in MCOP.No.810 of 2019 on the file of the Special Motor Accident Claims Tribunal Judge/the Special Sub Judge (MCOP), Tiruvannamalai.

2.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.810 of 2019 on the file of the Special Motor Accident Claims Tribunal Judge/the Special Sub Judge (MCOP), Tiruvannamalai, on 18.12.2020. For the sake of



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convenience, the parties are referred to as per their ranking before the trial Court.

3.The legal representatives of the deceased Naveen filed MCOP.No.810 of 2019, seeking compensation and filed this Appeal on the point of quantum.

4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.

5.During the trial, on the side of the claim Petitioners, PW1 & PW2 were examined & Ex.P.1 to Ex.P.14 were marked and on the side of the Respondents, RW1 was examined and no document was marked.

6.Heard the learned counsel appearing on behalf of the claim Petitioners and the learned counsel appearing on behalf of the Insurance Company.



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7.The claim Petitioners have filed the above claim Petition, claiming compensation for the death of their son viz., Naveen on the road transport accident occurred on 26.11.2019 at about 08.30 am. At the time of the accident, the deceased was studying final year B.Sc, (Information Technology) and he was said to have been working at M/s.Vaishnavi Agencies and earned a sum of Rs.25,000/- per month. However, no positive evidence has been produced. The Tribunal has fixed the notional income at Rs.10,000/- per month. Since the deceased was studying third year B.Sc., (IT), the notional income of the deceased is enhanced from Rs.10,000/- to Rs.15,000/- per month. The Tribunal has deducted 50% towards personal expenses of the deceased and added 40% towards future prospects and adopted right multiplier of '18' as per the judgment of the Hon'ble Supreme Court in the case of ***Sarla Verma & Others .Vs. Delhi Transport Corporation & another***, reported in ***2009 (2) TNMAC 1 (SC)***. The same are hereby confirmed. Hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$[\text{Rs.15,000/-} + (40\% \text{ of } 15,000\text{-})] / 2 \times 12 \times 18 = \text{Rs.22,68,000/-}$$



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8.The claim Petitioners as parents of the deceased are entitled for Rs.40,000/- each towards filial consortium and the third Petitioner is entitled for Rs.50,000/- towards loss of love and affection. The Tribunal has awarded a sum of Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral expenses, which are just and proper and the same are hereby confirmed. Apart from this, a sum of Rs.15,000/- is awarded towards transportation charges.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	2268000
2	Loss of filial consortium	80000
3	Loss Love and affection	50000
4	Funeral expenses	15000
5	Loss of Estate	15000
6	Transportation	15000
	Total Compensation	2443000

In total, the claim Petitioners are entitled to a sum of Rs.24,43,000/- (Rupees twenty four lakh forth three thousand only).

9.In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.16,02,000/- to Rs.24,43,000/- to the extent indicated



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above. No Costs.

(ii) the Insurance Company is directed to deposit the enhanced award amount, with 7.5% interest per annum and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order.

(iii) on such deposit being made, all the claim Petitioners /Appellants are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal.

(iv) the claim Petitioners 1 & 2/Appellants 1 & 2 are permitted to withdraw their entire share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal. The third claim Petitioner/third Appellant is a minor. He is entitled to get his share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The same shall be kept in a interest bearing fixed deposit in any one of the nationalised bank, till he attains majority. The first claim Petitioner/ first Appellant, who is the guardian of minor, is permitted to withdraw the interest from the deposit of the minor's share once in three months.



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(v) the claim Petitioners are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

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Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To

The Special Motor Accident Claims Tribunal Judge

/the Special Sub Judge (MCOP),

Tiruvannamalai.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated: 19.01.2024