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C.M.A.Nos.2793 & 2797 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.Nos.2793 & 2797 of 2021

1. Rajendran

2. Rani ... Appellants/Petitioners in C.M.A.No.2793 of 2021

Mahadevan ... Appellant/Petitioner in C.M.A.No.2797 of 2021

Vs.

1.Karuppaiah

2. United India Insurance Company Ltd,
TP -HUB, Peramanur Main Road,
Salem -7 (Policy issued by United India
Insurance Company Limited)
275, Dindigul Road,
Manapparai, Trichy

... Respondents/Respondents

Prayer in C.M.A.No.2793 of 2021: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 15.03.2021 made in M.C.O.P.No.1087 of 2018 on the file of the Motor Accident Claims Tribunal and Special District Judge, Salem.



C.M.A.Nos.2793 & 2797 of 2021

Prayer in C.M.A.No.2797 of 2021: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree dated 15.03.2021 made in M.C.O.P.No.1733 of 2018 on the file of the Motor Accident Claims Tribunal and Special District Judge, Salem.

In both C.M.As

For Appellants : Mr.S.P.Yuvaraj

For Respondents : No appearance [R1]

Mr.M.J.Vijaya Raghavan [R2]

COMMON JUDGEMENT

Since both the appeals are arising out of the very same accident, they are disposed of by way of this common judgment.

2. Challenging the common judgement and decree dated 15.03.2021 made in M.C.O.P.Nos.1087 & 1733 of 2018 on the file of the Motor Accident Claims Tribunal and Special District Judge, Salem, the present appeals have been filed by the respective claimants seeking enhancement of the compensation awarded by the tribunal.



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3. It is the case of the claimants that, on 11.10.2017 the deceased Ranjith Kumar (M.C.O.P.No.1087 of 2018) and the injured Mahadevan (M.C.O.P.No.1733 of 2018) were engaged in the Road Contract and when they were in employment, the lorry bearing Reg.No.TN 01 L 8609, owned by the 1st respondent and insured by the 2nd respondent, driven by its driver in a rash and negligent manner, dashed against the said Ranjith Kumar and Mahadevan, due to which they sustained grievous injuries and the said Ranjith Kumar lost his life and the said Mahadevan sustained injuries. Thereby, the dependents of the deceased Ranjith Kumar and the said Mahadevan filed claim petitions claiming compensation of Rs.30,00,000/- and 20,00,000/- respectively. Before the claims Tribunal, on behalf of the appellants/Claimants, they examined PW1 and PW2 and marked Exs.P1 to P22. On behalf of the respondents, no witnesses were examined and no documents were marked. After trial, the Claims Tribunal awarded a compensation of Rs.13,90,800/- in favour of the claimants in MCOP.No.1087 of 2018 and Rs.4,57,298/- in favour of the claimant in MCOP.No.1733 of 2018. For enhancement of the same, the present appeals have been filed.



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4. The learned counsel appearing for the appellants would submit that, the accident is of the year 2017 and at the time of accident, the deceased was 24 years, however, the tribunal has fixed a notional income of Rs.9,000/-, which is very meager and the same is contrary to the decision of the Hon'ble Apex Court in the case of ***Sarla Verma and Ors. v. DTC & Ors.*** reported in ***(2009) 6 SCC 121***. Further, no compensation has been awarded under the head love and affection and the compensation awarded under other heads are also very meagre and the same has to necessarily be enhanced. In respect of the injured person is concerned, the total disability assessed by the Medical Board is 30%, whereas the Claims Tribunal awarded only Rs.5,000/- per percentage, which has to be enhanced and further no compensation has been awarded under the head pain and sufferings and the compensation awarded under other heads are also very meagre. Accordingly, he prays for enhancement of compensation.

5. Per contra, the learned counsel appearing for the second



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respondent/Insurance Company submitted that, by considering all the relevant documents placed before it, the Tribunal has awarded the compensation in favour of the respective claimants, which does not require any further enhancement. Accordingly, he prays for dismissal of these appeals.

6. Heard the learned counsel for the appellants and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

7. The appellants are claimants and for enhancement of compensation these appeals have been filed and thereby, there is no need for discussion with regard to the negligence aspect, since, already the Claims Tribunal, after elaborate discussion arrived at a conclusion and had fastened the entire liability as against the respondents and the same need not be interfered with.

8. In respect of the quantum of compensation, with regard to the deceased person is concerned, the accident is of the year 2017 and at



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the time of accident, the deceased was 24 years, however, the tribunal has fixed a notional income of Rs.9,000/-. It has been the view of the courts that even a housewife is entitled to monthly income to be fixed for the purpose of qualifying their work for the purpose of quantifying the amount receivable by them. Applying the ratio laid down by the Hon'ble Supreme Court in the case of *Syed Sadiq Vs. United India Insurance Company* reported in **2014 (1) TANMAC 459**, fixing a notional income of Rs.13,000/- and adding future prospects at 40%, as has been held by the Constitution Bench in the case of *National Insurance Company Limited Vs. Pranay sethi and others* reported in **2017 (16) Supreme Court Cases 680**, the total income per month is quantified at Rs.18,200/-. Since the deceased is a Bachelor, deducting 50% towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.9,100/- per month and the deceased being aged about 24 years, as evidenced from the records, adopting the multiplier of 18 as fixed by the Apex Court in the case of *Sarla Verma and Ors. v. DTC & Ors.* reported in **(2009) 6 SCC 121**, the loss of income to the family is arrived at Rs.9,100/- * 12 * 18 = Rs.19,65,600/-. Further, no compensation has



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been awarded under the head love and affection, thereby, this Court awards a sum of Rs.80,000/- (2 * Rs.40,000/- = Rs.80,000/-) under the head loss of love and affection. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of Dependency	13,60,800/-	19,65,600/- (enhanced)
Loss of love and affection (Rs.40,000/- x 2)	-	80,000/- (awarded)
Funeral Expenses	15,000/-	15,000/-
Loss of estate	15,000/-	15,000/-
Total	13,90,800/-	20,75,600/-

9. In respect of quantum of compensation with regard to the injured person is concerned, the Medical Board assessed 30% permanent disability and the accident is of the year 2017, whereas the Claims Tribunal awarded only Rs.5,000/- per percentage which is contrary to the dictum laid down in a catena of decisions relating to fixation of amount towards per percentage. Hence, taking a sum of Rs.7,000/- per percentage of disability and as the disability sustained by the injured



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appellant is 30%, the compensation under the head Disability is reassessed on percentage basis and accordingly, this Court awards a sum of Rs.2,20,000/- towards Disability (Rs.7,000/- x 30 = Rs.2,10,000/-). Further, no compensation has been awarded under the head pain and sufferings and therefore, this Court feels that a sum of Rs.60,000/- under the said head would be a just and reasonable. Further, the compensation awarded by the Tribunal under the heads Loss of income during treatment period, Nourishment and Attender charges are also on the lower side and thereby, the same is enhanced to Rs.30,000/-, Rs.20,000/- and Rs.15,000/- respectively. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Loss of income	27,000/-	30,000/-
Pain and Sufferings	-	60,000/-
Permanent Disability	1,50,000/-	2,10,000/-
Medical Bills	2,60,298/-	2,60,298/-
Nourishment	10,000/-	20,000/-
Attender Charges	10,000/-	15,000/-
Total	Rs.4,57,298/-	Rs.5,95,298/-



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10. Accordingly, the appeals are allowed in part and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.13,90,800/- to Rs.20,75,600/-** in MCOP.No.1087 of 2018 and the said award amount shall be apportioned amongst the appellants/claimants as per the Award of the Tribunal and the compensation in MCOP.No.1733 of 2018 is enhanced from **Rs.4,57,298/- to Rs.5,95,298/-**. The 2nd respondent-Insurance Company is directed to deposit the said amount to the credit of the respective MCOP's along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any already deposited, within a period of six (6) 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 amount directly to the bank account of the respective appellants through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation by the appellants. There shall be no order as to costs in these appeals.

28.11.2024



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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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M.DHANDAPANI, J.,

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To

1. Motor Accident Claims Tribunal and Special District Judge,
Salem.
- 2.The Section Officer, V.R.Section,
High Court, Madras.

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