



CMA No.2733 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2733 of 2021

Judgment reserved on 11.01.2024	Judgment pronounced on 08.02.2024
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1.Sumathi
2.Lokeshkanna
3.Shanmugapriya
4.Jayaram

... Appellants

Vs.

1.Mr.Venkatesh

2.The Manager,
National Insurance Company Limited,
Mettur Branch, No.37/40,
Salem Main Road,
Mettur Dam Railway Station,
Salem District – 636 402.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgement and decree dated 24.03.2021 made in M.C.O.P.No.515 of 2020, on the file of the Motor Accidents Claims Tribunal, (Special District Court), Krishnagiri.

For Appellant : Mr.S.P.Yuvaraj



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For R1 : No appearance

For R2 : Mr.R.Premchander

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JUDGMENT

The claim petitioners who are the appellants herein have filed this appeal seeking enhancement of compensation awarded in M.C.O.P.No.515 of 2021 on the file of the Motor Accident Claims Tribunal Judge /Special District Court, Krishnagiri.

2. For the sake of convenience, the parties are referred to as per their litigating status before the trial Court. The claim petitioners / appellants filed the claim petition seeking compensation for the death of Govindaraj in the road transport accident on 29.11.2019.

3. The factum of accident, manner of accident, rash and negligent on the part of the driver of the offending vehicle and vehicle being insured with the second respondent/Insurance company are not in dispute. Accordingly, the finding rendered by the Trial Court with regard to negligence are hereby confirmed.

4. The first claim petitioner is the wife of the deceased



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Govindaraj. As per the post mortem certificate, the deceased was aged about 49 years at the time of accident and the same is also found to be corroborated as per Ex.P14 - Aadhar card. Accordingly, the age of the deceased at the time of accident is fixed as 49 years. As per **SARLA VERMA's** case, the multiplier applicable is 13. The deceased is said to have been a Proprietor of Sri Guru Engineering Work Shop and also a JCB vehicle mechanic. Ex.P17 - Motor Vehicle Repairers Association Membership Form is marked through PW3. The date of accident being 29.11.2019, the notional income fixed by the Tribunal is meagre and hence I am inclined to fix the notional income as Rs.12,000/- per month. Taking into consideration the number of dependants, as per the **SARLA VERMA's** case, 1/4th has to be deducted towards personal expenses of the deceased. As per the judgment of the Hon'ble Supreme Court in **Pranay Sethi** case, 25% has to be awarded towards future prospects. Thus, the compensation towards loss of dependency is enhanced to Rs.17,55,000/-, details as follows -

$$12,000 + 3000 (25\% \text{ of } 12000) \times 12 \times \frac{3}{4} \times 13 = 17,55,000/-$$

5. The Tribunal has not awarded any compensation towards transportation charges and hence I am inclined to award a sum of Rs.15,000/- under this head. The compensation awarded by the Tribunal



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under other heads are hereby confirmed. The break-up details of the compensation is as under :

Sl. No	Heads under which the amount is awarded	Amount awarded by the Tribunal – Rs.	Amount awarded by this Court – Rs.
1.	Loss of dependency	13,16,250/-	17,55,000/-
2.	Loss of Estate	15,000/-	15,000/-
3.	Funeral expenses	15,000/-	15,000/-
4.	Loss of consortium	2,00,000/-	2,00,000/-
5.	Medical Bills	1,56,997/-	1,56,997/-
6.	Transportation charges	-	15,000/-
	Total	17,03,247/-	21,56,997/-

In total, the claim petitioners are entitled to a sum of Rs.21,56,997/- (Rupees Twenty One Lakhs Fifty Six Thousand Nine Hundred and Ninety Seven only)

6. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from Rs.17,03,247/- to Rs.21,56,997/- to the extent indicated above, alongwith 7.5% interest per annum. No costs.

(ii) the 2nd Respondent/National Insurance Company Limited is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.



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(iii) on such deposit being made, the claim petitioners/appellants

are permitted to withdraw their share of the entire enhanced award amount with accrued interest and costs, less the award amount, if any, already withdrawn, on the basis of apportionment fixed by the Tribunal, by filing necessary application before the Tribunal.

(iv) the claim petitioners/Appellants 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.

08.02.2024

rgr

Index : Yes/No

Speaking/Non-speaking order

To

1.The Special District
Motor Accident Claims Tribunal,
Krishnagiri.

2.The Section Officer,
V.R.Section,
High Court, Madras.



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RMT.TEEKAA RAMAN, J.

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Pre-delivery Judgment in
C.M.A.No.2733 of 2021

08.02.2024