



C.M.A.No.2691 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 01.03.2024	Pronounced on 28.03.2024
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2691 of 2021

1.Indira (43), W/o.Selvaraj, Hindu

2.Punidavalli (24), D/o.Selvaraj, Hindu

3.Manimaran (22), S/o.Selvaraj, Hindu

All are residing at
No.22, Anthoniar Koil Street, Madhagadi
Karaikal Town District and Munsifi

... Appellants

Vs.

1.Stalin (24), S/o.Ramachandran, Driver
Residing at
No.8, Anthonial Koil Street, Madhagadi
Kariakal Town District and Munsifi

2.Seyad Ahamed, S/o.Seyed Ismail,
Muslim, Merchant
Residing at No.5, Block-2, Seshamoolai Salai
Kariakal Town District and Munsifi

3.The Reliance General Insurance Co. Ltd.,
Rep. by its Branch Manager
Having office at
4th Floor, Chinthamani Avenue



C.M.A.No.2691 of 2021

Off Western Express Highway
Near Virwani Industrial Estate
Goregaon (East), Mumbai 400 063

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Decree and Judgment dated 12.05.2020 made in MCOP.No.227 of 2018 on the file of the Motor Accident Claims Tribunal (District Judge), Karaikal.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : Mr.P.Suresh Srinivasan (for R3)

J U D G M E N T

The Appeal has been filed against the Decree and Judgment dated 12.05.2020 made in MCOP.No.227 of 2018 on the file of the Motor Accident Claims Tribunal (District Judge), Karaikal.

2.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.227 of 2018 on the file of the Motor Accident Claims Tribunal (District Judge), Karaikal. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.



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3.The legal representatives of the deceased Vijayakumar filed MCOP.No.227 of 2018, 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 2nd Respondent's vehicle, insured with the 3rd 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 2nd Respondent's vehicle, insured with the 3rd Respondent are hereby confirmed.

5.During the trial, on the side of the claim Petitioners, PW1 & PW2 were examined & Ex.P1 to Ex.P10 were marked and on the side of the Respondents, none 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 1st claim Petitioner is the widowed mother of the deceased, who died in the road transport accident occurred on 02.09.2018. As per the evidence of PW1, the deceased was a fish merchant, who collected fish from the various sea shore villages and taking it to Karaikal and selling it in the local market. The trial Court has taken into consideration the law laid down by this Court in the case of *Andal & Others Vs. Avinav Kannan and others* reported in **2019(1) TNMAC 54 (DB)** and fixed notional income at Rs.14108/- (Rs.6500 x 280/129). As per the judgment rendered by the Hon'ble Supreme Court in the case of *Sarla Verma & Others .Vs. Delhi Transport Corporation & another*, reported in **2009 (2) TNMAC 1 (SC)**, right multiplier of '18' was adopted by the Tribunal. The same are hereby confirmed.

8.The deceased died as a bachelor and number of family members of the family is 3, therefore, 1/3rd deduction to be made towards personal expenses of the deceased. Hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$[\text{Rs.14,108/-} + (40\% \text{ of } 14,108\text{-})] \times 12 \times 18 \times 2/3 = \text{Rs.28,44,172/-}$$



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9.The 1st claim Petitioner widowed Mother is entitled for Rs.40,000/- towards filial consortium. The 2nd and 3rd claim Petitioners are entitled for Rs.75,000/- each towards loss of love and affection. The Tribunal has awarded a sum of Rs.15,000/- towards funeral expenses, the same is hereby confirmed. Apart from this a sum of Rs.15,000/- each is awarded towards loss of estate and transportation.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	2844172
2	Filial consortium	40000
3	Loss Love and affection	150000
4	Funeral expenses	15000
5	Loss of Estate	15000
6	Transportation	15000
	Total	3079172
	Rounded off	3079200

In total, the claim Petitioners are entitled to a sum of Rs.30,79,200/- (Rupees thirty lakh seventy nine thousand and two hundred only) and the interest awarded by the Tribunal at the rate of 7.5% per annum is also confirmed.



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10.In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.16,88,664/- to Rs.30,79,200/- to the extent indicated 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. No Costs.

(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. The claim Petitioners 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.



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(iv) 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.

28.03.2024

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

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To

The District Judge,
Motor Accident Claims Tribunal,
Karaikal.



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RMT.TEEKAA RAMAN.J,

sai

Pre-delivery Judgment made in

C.M.A.No.2691 of 2021

Dated: 28.03.2024