



C.M.A.No.2026 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 10.01.2024	Pronounced on 31.01.2024
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

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1.Raniyamma, aged about 40 years
W/o.Late Raju

2.R.Shoba, aged about 19 years
D/o.Late Raju

both are residing at
No.9/11-A, 2nd Street
Mahalaskhmi Nagar
Adambakkam, Guindy
Chennai

... Appellants

Vs.

1.S.Astalakshmi
W/o.Suresh Kumar
No.1-66E, Pirivu Road
Sankari West, Sankari Taluk
Salem District 637 303

2.The New India Assurance Company Limited
(Motor third party Cell) Bombay mutual Building
6th Floor, No.232, N.S.C. Bose Road
Chennai 600 001

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the



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Judgment and Decree dated 23.09.2019 made in MACTOP.No.3612/2018 on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For Appellants : Ms.M.Malar

For Respondents : Ms.S.R.Sumathi (for R2)

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 23.09.2019 made in MACTOP.No.3612/2018 on the file of the Motor Accident Claims Tribunal, Chief Court, Court of Small Causes, Chennai.

2.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MACTOP.No.3612/2018 on the file of the Motor Accident Claims Tribunal, Court of Small Causes, Chennai. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The legal representatives of the deceased Ananda filed MACTOP.No.3612/2018, seeking compensation and filed this Appeal on the



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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.13 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 on the point of quantum of compensation.

7.It is the case of the fatal injuries. The claim Petitioners are the Mother



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and younger Sister of the deceased Ananda. The date of the accident is 10.04.2018. The claim Petitioners claimed that the deceased was working as Driver in M/s.P.R.K.Travels and earned Rs.15,000/- per month and Rs.100/- as daily batta. On the side of the Insurance Company it was disputed. In the absence of any contra evidence, I find that the evidence of PW1 coupled with Ex.P.4/driving license of the deceased, the deceased was working as driver and could have earned a sum of Rs.14,000/- per month.

8.Taking into consideration the nature and place of avocation said to have been carried on by the deceased as Driver at Bangalore a sum of Rs.14,000/- is fixed as notional income of the deceased. Based on Ex.P4/driving license of the deceased, the Tribunal came to a finding that the deceased was aged 21 years at the time of the accident and applied '18' as multiplier 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 is hereby confirmed. The Tribunal has deducted 50% towards personal expenses of the deceased, the same is also hereby confirmed. As per the Constitution Bench's judgment of the Hon'ble



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Apex Court in *National Insurance Company Limited V. Pranay Sethi and others*, reported in **2017 (2) TN MAC 609 (SC)**, 40% is added towards future prospects and hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$[\text{Rs.14,000/-} + (40\% \text{ of } 14,000\text{-})] / 2 \times 12 \times 18 = \text{Rs.21,16,800/-}$$

9.The claim Petitioners as Mother and younger Sister of the deceased are entitled for Rs.40,000/- each towards loss of love and affection. The Tribunal has awarded a sum of Rs.15,000/- towards funeral expenses, which is just and proper and the same is hereby confirmed. Apart from this, a sum of Rs.15,000/- is awarded towards loss of estate.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	2116800
3	Loss Love and affection	80000
4	Funeral expenses	15000
5	Loss of Estate	15000
	Total Compensation	2226800

In total, the claim Petitioners are entitled to a sum of Rs.22,26,800/- (Rupees twenty two lakh twenty six thousand and eight 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.11,35,000/- to Rs.22,26,800/- 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.

(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.

(iv) By earlier order of this Court dated 13.07.2021 in CMP.No.9953 of 2021 in



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CMA.No.sr82830 of 2020, the claim Petitioners are exempted from court fee at the time of admission. Since, now the award amount is enhanced, the claim Petitioners are directed to pay the excess court fee, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

31.01.2024

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

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To
The Chief Judge,
Motor Accident Claims Tribunal,
Court of Small Causes, Chennai.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated: 31.01.2024