



C.M.A.No.2850 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 22.02.2024	Pronounced on 27.03.2024
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2850 of 2021

1.Radha (48 years)
W/o.Chinnamadhu

2.Chinnamadhu (50 years)
S/o.Mariappan

3.C.Aruna (27 years)
D/o.Chinnamadhu

4.Akila (25 years)
D/o.Chinnamadhu

All are residing at D.No.2/162
K.Mottur Village
Puliyampatti Post
Pochampalli Taluk

... Appellants

Vs.

1.Balakrishnan
S/o.Parthesi Thevar
No.49-A, Sathankulam
Maruthakulam Via
Nangunery Taluk
Tirunelveli District



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2.M/s.Raja Agency
464, RSP Building
DMP Road, Perichipalayam Bus Stop
Tiruppur 641 607

3.The Branch Manager
National Insurance Co. Ltd.,
Branch Office
No.58, Rajaji Street
Kangayam
Periyar District 638 701

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award in Judgment and Decree dated 29.03.2021 made in MCOP.No.1159 of 2019 on the file of the Motor Accident Claims Tribunal and Special District Court, Krishnagiri.

For Appellants : Mr.S.P.Yuaraj

For Respondents : Mr.J.Chandran (for R3)

J U D G M E N T

The Appeal has been filed against the award in Judgment and Decree dated 29.03.2021 made in MCOP.No.1159 of 2019 on the file of the Motor Accident Claims Tribunal and Special District Court, Krishnagiri.



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2.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.1159 of 2019 on the file of the Motor Accident Claims Tribunal and Special District Court, Krishnagiri. 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 Anand filed MCOP.No.1159 of 2019 on the file of the Motor Accident Claims Tribunal and Special District Court, Krishnagiri, 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.



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5. During the trial, on the side of the claim Petitioners, PW1 & PW2 were examined & Ex.P1 to Ex.P.18 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.

7. As per Ex.P3/copy of driving license of the deceased, the deceased is aged about 24 years and accordingly multiplier '18' has to be adopted. The claim Petitioners 1 & 2 are the parents of the deceased/bachelor and claim Petitioners 3 & 4 are the sisters of the deceased, who are dependants of the deceased. As per Ex.P.17/legalheirs certificate issued by the competent authority, the deceased died as a bachelor and hence $\frac{1}{2}$ deduction has to be made. The deceased has completed his college studies and running a mobile shop in the name of Anand Madhu Mobile Shop at Hosur. Considering the same, this Court fixed the notional income of the deceased at Rs.12,000/-. The Tribunal has added 40% towards future prospects, the same is hereby



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confirmed and hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$[\text{Rs.}12,000/- + (40\% \text{ of } 12000/-)] \times 12 \times 18 \times \frac{1}{2} = \text{Rs.}18,14,400/-$$

8.The claim Petitioners 1 to 4 are entitled to Rs.40,000/- each 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	1814400
2	Loss of Love and affection	160000
3	Transportation	15000
4	Funeral expenses	15000
5	Loss of Estate	15000
	Total Compensation	2019400

In total, the claim Petitioners are entitled to a sum of Rs.20,19,400/- (Rupees twenty lakh nineteen thousand and four hundred only) and the interest awarded by the Tribunal at the rate of 7.5% per annum is also confirmed.



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9.In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.15,10,800/- to Rs.20,19,400/- 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.



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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.

27.03.2024

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

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To

The Special District Judge
Special District Court
Motor Accident Claims Tribunal
Krishnagiri.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

C.M.A.No.2850 of 2021

Dated: 27.03.2024