



C.M.A.No.2943 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 06.02.2024	Pronounced on 16.02.2024
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2943 of 2021

1.S.Gothawari
W/o.Sathiskumar

2.Minor Saranya
D/o.Sathiskumar

3.Minor Soundarya
D/o.Sathiskumar

Minor 2 & 3 are represented by their
Mother and natural friend 1st Petitioner
All the appellants are residing at
No.1241, 20th Cross Street, Ambedkar Street
Adambakkam, Chennai 600088

... Appellants

Vs.

1.M.Prabu

2.Reliance General Insurance Company Limited
Reliance House, 6th Floor
Nungambakkam,
Chennai 600006

... Respondents

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



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Judgment and Decree dated 08.03.2021 in MCOP.No.6434 of 2016 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.III, Court of Small Causes), Chennai.

For Appellants : Mr.R.Nalliyappan

For Respondents : Mr.S.Arunkumar (for R2)

J U D G M E N T

The Appeal has been filed against Judgment and Decree dated 08.03.2021 in MCOP.No.6434 of 2016 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.III, Court of Small Causes), Chennai.

2.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.6434 of 2016 on the file of the Motor Accident Claims Tribunal (Special Sub Court No.III, 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 Sathishkumar filed MCOP.No.6434 of 2016 on the file of the Motor Accident Claims Tribunal



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(Special Sub Court No.III, Court of Small Causes), Chennai, 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 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 to PW3 were examined & Ex.P.1 to Ex.P.16 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.At the time of the accident, the deceased was aged 33 years and was a Driver and therefore, the Tribunal has fixed the monthly income at Rs.11,000/-



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per month. Based on the oral and documentary evidences viz., Ex.P.6/driving license of the deceased and Ex.P.7/salary certificate of the deceased, this Court fixes the same at Rs.15,000/- per month. The Tribunal has taken '16' 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)***, and deducted 1/3rd towards personal expenses of the deceased as the family members of the deceased are three in number and added 40% towards future prospects of the deceased. The same are hereby confirmed. Hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$[\text{Rs.15,000/-} + (40\% \text{ of } 15,000\text{-})] \times 2/3 \times 12 \times 16 = \text{Rs.26,88,000/-}$$

8.The Tribunal has awarded a sum of Rs.40,000/- to the first claim Petitioner/wife towards loss of consortium, a sum of Rs.15,000/- each towards a loss of estate and funeral expenses and a sum of Rs.10,000/- towards transportation charges. The same are hereby confirmed. The Tribunal has awarded a sum of Rs.40,000/- each to the claim Petitioners 2 & 3 towards loss of love and affection, the same is enhanced to Rs.75,000/- each.



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<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	2688000
2	Loss of consortium	40000
3	Loss love and affection	150000
4	Loss of estate	15000
5	Funeral expenses	15000
6	Transportation charges	10000
	Total Compensation	** Expression is faulty **

In total, the claim Petitioners are entitled to a sum of Rs.29,18,000/- (Rupees twenty nine lakh eighteen thousand only) and the interest awarded by the Tribunal at the rate of 7.5% per annum is also confirmed.

9.In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.21,31,200/- to Rs.29,18,000/- 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



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eight weeks from the date of receipt of a copy of this order.

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(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.

(iv) the first claim Petitioner /first Appellant is permitted to withdraw her entire share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal. The second & third claim Petitioners/second & third Appellants are minors. They are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The same shall be kept in a interest bearing fixed deposit in any one of the nationalised bank, till they attain majority. The guardian of minor/1st claim Petitioner/1st Appellant is permitted to withdraw the interest from the deposit of the minor's share once in three months.

(v) 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



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only after the receipt of Court fee.

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16.02.2024

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

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To
The Special Sub Judge,
Special Sub Court No.III, Court of Small Causes,
The Motor Accident Claims Tribunal,
Chennai.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated: 16.02.2024