



C.M.A.No.3093 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on 09.01.2024	Pronounced on 19.01.2024
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CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

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1.Sasikala
2.Shyam Akash (Minor)
3.Vasanth Sanjay (Minor)
(Minors are represented by their mother & next friend Sasikala)
4.Sujatha
Periyasamy (died)
(Amended as per order in MP.No.939 of 2019)
All are residing at
No.5/55, Andal Kovil Street
Madhanankuppam, Kolathur
Chennai 600 099

... Appellants

Vs.

1.R.Pushpa
M.G.R.Nagar
Nellore Uratchi
Redhills, Chennai 600 052

2.Future General Insurance Company Ltd.,
3rd Floor, Plot No.55, Old No.27
Vijay Raghava Road
T.Nagar, Chennai 600 017

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Decree and Judgment dated 23.03.2020 made in MCOP.No.3021 of 2017, on



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the file of the Motor Accident Claims Tribunal (Small Causes Court, Special Sub Judge No.2) Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : Mr.M.B.Raghavan (for R2)

J U D G M E N T

The Appeal has been filed against the Decree and Judgment dated 23.03.2020 made in MCOP.No.3021 of 2017, on the file of the Motor Accident Claims Tribunal (Small Causes Court, Special Sub Judge No.2) Chennai.

2.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.3021 of 2017. 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 Vijaya Kumar filed MCOP.No.3021 of 2017, seeking compensation and filed this Appeal on the point of quantum.



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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.9 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.The claim Petitioners have filed the above claim Petition, claiming compensation for the death of Vijaya Kumar on the road transport accident occurred on 05.03.2017. On the date of the accident, the deceased was aged 41 years, as the date of birth of the deceased as per Ex.P.6/driving license of the deceased is 07.05.1975. Hence the Tribunal has adopted right multiplier of '14'



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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 the same is hereby confirmed.

8.On behalf of the claim Petitioners, with regard to source of income, Ex.P.8/bank passbook and Ex.P.9/RC book of deceased's autos were marked, which showed that at the time of the accident the deceased was having three autos and he was running an auto and two autos were lent for hire. The deceased was also having valid driving license. Hence, taking into consideration the date of the accident, nature of avocation which is said to have been carried on by the deceased, this Court is of the considered view that a sum of Rs.15,000/- may be fixed as notional income of the deceased. Accordingly, fixed the notional income at Rs.15,000/- per month.

9.The Tribunal has added 25% of the income of the deceased towards future prospects and deducted 1/4th towards personal expenses of the deceased. The same are hereby confirmed. Hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$[\text{Rs.15,000/-} + (25\% \text{ of } 15,000\text{-})] \times 3/4 \times 12 \times 14 = \text{Rs.23,62,500/-}$$



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10.The Tribunal has awarded a sum of Rs.40,000/- to the first claim Petitioner towards loss of consortium, a sum of Rs.15,000/-towards loss of estate and 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 and a sum of Rs.50,000/- each is awarded to the claim Petitioners 2 to 4 towards loss of love and affection.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	2362500
2	Loss of consortium	40000
3	Loss Love and affection	150000
4	Funeral expenses	15000
5	Loss of Estate	15000
6	Transportation	15000
	Total Compensation	2597500

In total, the claim Petitioners are entitled to a sum of Rs.25,97,500/- (Rupees twenty five lakh ninety seven thousand and five hundred only).

11.In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.20,22,500/- to Rs.25,97,500/- to the extent indicated above. No Costs.



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(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.

(iv) the claim Petitioners 1 & 4/Appellants 1 & 4 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. The claim Petitioners 2 & 3/Appellant 2 & 3 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 the interest bearing fixed deposits in any one of the nationalised bank, till they attain majority. The first claim Petitioner/first Appellant, who is the guardian of the minors, is permitted to withdraw the interest from the deposit of the minors' share once in three months.



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(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 only after the receipt of Court fee.

19.01.2024

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

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To
The Special Sub Judge No.2
Motor Accident Claims Tribunal
(Small Causes Court, Special Sub Judge No.2)
Chennai



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated: 19.01.2024