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C.M.A.No.2540 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.2540 of 2023

George Ammal

...

Appellant

..Vs..

1.M/s.Eicher Motors Limited,
No.3/9, Besant Avenue,
Adayar, Chennai 600 020.

2. Bajaj Alliance General Insurance Co. Ltd.,
Old No.276 and 277, New No.497 & 498, Isana
Kattima Building, 5th Floor,
Poonamallee High Road,
Arumbakkam, Chennai 600 106.

...

Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 21.09.2022 made in M.C.O.P.No.4479 of 2018 on the file of Motor Accident Claims Tribunal, in the Chief Small Causes Court, Chennai and allow this Civil Miscellaneous Appeal.

For Appellant : Mr.S.Shrish
for Mr.V.Tamilamudhu

For Respondents : Ms.Anu Narendran (R1)
for M/s.King & Patridge
: Mr.G.Vasudevan (R2)



JUDGMENT

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This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 21.09.2022 made in M.C.O.P.No.4479 of 2018 on the file of the Motor Accident Claims Tribunal in the Chief Small Causes Court, Chennai.

2. The appellant is the claimant in M.C.O.P.No.4479 of 2018 on the file of *Motor Accidents Claims Tribunal, Chief Small Causes Court, Chennai*. They filed the above said claim petition, claiming a sum of **Rs.1,00,00,000/-** as compensation for the death of one Sahaya Monika, who died in an accident that took place on 06.05.2018.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the 1st Respondent's car bearing Registration No.TN07 CM 8881 and directed the 2nd respondent-Insurance Company to pay a sum of **Rs.14,13,300/-** as compensation to the appellant, after deducting 25% of the compensation being the compensation payable to the father of the deceased.



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4. Not being satisfied with the amount awarded by the Tribunal, the appellant has come out with the present appeal seeking enhancement of compensation.

5. The learned counsel appearing for the appellant contended that at the time of accident, the deceased was employed as Customer Support Executive at Intelenet Global Services and was earning a sum of Rs.30,000/- per month, in support of the same, bank account details were also produced on the side of the claimant, but the Tribunal without considering the same has fixed only a sum of Rs.12,000/- as monthly income while determining the compensation towards Loss of Income which is very low. He further submitted that no compensation was awarded towards Transportation and total the compensation awarded towards other heads is also low and the same needs to be enhanced.

6. Per contra, learned counsel appearing for the 2nd respondent-Insurance Company contended that no proof of income was filed by the Appellant/claimant before the Tribunal to prove that the deceased was



earning a sum of Rs.30,000/- per month and therefore the Tribunal has rightly fixed the notional monthly income of the deceased @ Rs.10,000/-. He further submitted that the total compensation awarded by the Tribunal under various heads is not meagre and the appellants have not made out any case for enhancement of compensation.

7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent-Insurance Company and perused the entire materials on record.

8. The accident is of the year 2018. Though no proof of income was filed before the Tribunal to show that the deceased was earning a sum of Rs.30,000/- per month, this Court is of the view since the deceased was working as Customer Support Executive, her salary might be atleast Rs.15,000/- per month and accordingly, the monthly income of the deceased is fixed at Rs.15,000/-. By fixing a sum of Rs.14,000/- per month and by adding 40% towards future prospects and by adopting multiplier 18 and by deducting 50% towards personal expenses, **Loss of Income/Dependency** comes to **Rs.22,68,000/-** (15000+6000- 50% x12x18) and therefore a sum of



Rs.22,68,000/- is awarded towards **Loss for Income/Dependency**. Since no compensation was awarded towards **Transportation**, a sum of **Rs.10,000/-** is awarded under the said head.

9. The compensation awarded towards other heads are reasonable and the same stands confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or reduced or granted
1.	Loss of Income/Dependency	18,14,400/-	22,68,000/-	Enhanced
2.	Loss of Estate	15,000/-	15,000/-	Confirmed
3.	Loss of Consortium	40,000/-	40,000/-	Confirmed
4.	Funeral Expenses	15,000/-	15,000	Confirmed
5.	Transportation	NIL	10,000/-	Granted
	Total	18,84,400/-	23,48,000/-	
	Less: 25% (compensation to the father of the deceased)	4,71,100/-		
		14,13,300/-	23,48,000/-	Enhanced



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10. The learned counsel for the appellant/claimant submitted that the whereabouts of her husband who is the father the deceased are not known since he had left the appellant/claimant 8 years back and the deceased during her life time, was under the care and custody of the appellant/claimant. The Tribunal has awarded 25% of comensation to the father of the deceased therefore he prays that entire compensation now enhanced by this Court is permitted to be withdawn by the apppellant herself.

11.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at **Rs.14,13,300/-**(after deducting 25% share to the father of the deceased), is hereby enhanced to **Rs.23,48,000/-** together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent-Insurance Company is directed to deposit entire award amount now determined by this Court, along with interest and costs, less the amount already deposited, if any, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of **M.C.O.P.No.4479 of 2018** on the file of the Motor Accidents Claims Tribunal, Chief Judge, Court of Small Causes, Chennai. On



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such deposit being made, the Tribunal is directed to transfer 75% of the award amount along with interest and costs, directly to the Bank account of the Appellant/Claimant through RTGS, within a period of **three weeks thereafter**. Since the whereabouts of the father of the deceased is not known, in the event if he makes a claim within a period of Six months time from the date of deposit by the Insurance Company, the Tribunal shall transfer his share of 25% of the award amount along with interest to the Bank account of the father of the deceased through RTGS on verification. If no claim is made by him within the stipulated time, then his share of 25% of the award amount along with interest shall also be transferred to the bank account of the appellant/claimant. Even if the father of the deceased makes a claim after the expiry of the aforesaid period, he is at liberty to recover the same from the appellant-wife. The appellant/claimant shall pay necessary Court fee, if any, on the entire enhanced compensation. It is made clear that since there was delay in filing the C.M.A., the interest portion for the said period should be excluded for the purpose of granting interest. No costs.

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Index : Yes / No

Internet : Yes / No



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3. The Motor Accidents Claims Tribunal,
Chief Judge, Court of Small Causes,
Chennai.
- 4.The Section Officer,
VR Section,
High Court,
Madras.



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KRISHNAN RAMASAMY, J.

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