



C.M.A.No.1843 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.1843 of 2022

- 1.Chithra
- 2.Minor Shree Thilak,
Rep by 1st respondent/mother.
- 3.Minor Deepak,
Rep by 1st respondent/mother.
- 4.Dhanalaksmi
- 5.Shanmugam

...Appellant

Vs

- 1.P.Saravanan
- 2.M/s.National Insurance Company Limited,
Niresh Complex,
910, Cuddalore Main Road,
Attur Town, Salem,
Branch Office:
2nd Floor, Maruthi Complex,
F 215 Omalur Main Road,
Salem 4.

... Respondents



C.M.A.No.1843 of 2022

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount awarded in judgment and decree dated 18.01.2016 made in M.C.O.P.No.1822 of 2013 on the file of the Special District Court and Motor Accident Claims Tribunal Salem, by allowing this civil miscellaneous appeal.

For Appellant : Mr.S.Udayakumar,
for M/s.Karan and Uday.

For Respondent : No appearance for R1
Ms.R.Sreevidya for R2

JUDGMENT

This Civil Miscellaneous Appeal has been filed to enhance the compensation amount awarded in judgment and decree dated 18.01.2016 made in M.C.O.P.No.1822 of 2013 on the file of the Special District Court, Motor Accident Claims Tribunal, Salem.

2. The case of the appellant was that on 09.10.2013 at 09:45 pm, while one Manikandan was riding his two-wheeler from Panamarathupatty Panamadal to Edapadi, a TATA Sumo bearing Registration No.TN 72 D 8071 had came in a rash and negligent manner and dashed against him. Thereafter, the said



Manikandan was taken to the Hospital, however, he died during the treatment.

Hence, considering all the aspects, the Tribunal had awarded the compensation for the family members of the deceased.

3. The learned counsel for the appellants would submit that while awarding compensation, the Tribunal had determined the notional income of the deceased as a sum of Rs.7,500/- and further, it had wrongly deducted the dependency as '1/3' instead of '1/4'. He would also contend that the future prospects of 40% has not been added to the notional income of the deceased by the Tribunal.

4. Further, he would submit that the Tribunal had wrongly awarded a sum of Rs.50,000/- each for the parents and wife and a sum of Rs.10,000/- each for children of the deceased. He would also contend that no amount was awarded towards the Transportation and Loss of Estate and with regard to the funeral expenses only a sum of Rs.25,000/- has been awarded by the Tribunal. Hence, he requests this Court to re-determine the compensation awarded under the aforesaid heads as per the law laid down by the Hon'ble Apex Court.



C.M.A.No.1843 of 2022

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5. The aforesaid contentions of the appellants were also confirmed by the learned counsel for the respondent, who appears for the Insurance Company.

6. Heard the learned counsel for the appellants and the respondents and also perused the materials available on record.

7. In view of the above submissions, this Court is inclined to re-determine the compensation awarded by the Tribunal. Accordingly, the future prospects of 40% has to be added to the notional income of the deceased i.e., Rs.7,500/-, and the same has to be calculated as follows:

$$\text{Rs.7,500/- (notional income) + Rs.3,000/- (40\% of the income) = Rs.10,500/-}$$

8. Since there are 5 members in the family of the deceased, out of the aforesaid amount, 1/4 has to be deducted towards the personal expenses of the deceased. However, the Tribunal had wrongly deducted 1/3. Hence, the notional income would be calculated as follows:

$$\text{Rs.10,500/- (income) - (1/4) = Rs.7,875/-}$$



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9. Accordingly, the loss of income shall be calculated by applying multiplier as '17' in the following manner:

$$\text{Rs.7,875/- (income)} * 12 \text{ (months)} * 17 \text{ (multiplier)} = \text{Rs.16,06,500/-}$$

10. Further, the loss of consortium for the wife (Rs.50,000/-) and loss of love and affection for the parents (Rs.50,000/- each) and children (Rs.10,000/- each) of the deceased, which were awarded by the Tribunal, are on higher side. Hence, as per the law laid down by the Hon'ble Apex Court, this Court is inclined to fix the Loss of Consortium as a sum of Rs.40,000/- and Loss of Love and Affection as a sum of Rs.1,60,000/- (Rs.40,000/- each).

11. The Tribunal had also awarded a sum of Rs.25,000/- towards the funeral expenses, which is on higher side. Hence, the said amount is reduced to a sum of Rs.15,000/-. Further, since no amount was awarded under the head “Loss of Estate” and “Transportation” by the Tribunal, this Court is inclined to award a sum of Rs.15,000/- towards the “Loss of Estate” and a sum of Rs.10,000/- towards “Transportation”.



C.M.A.No.1843 of 2022

WEB COPY 12. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Funeral Expenses	25,000	15,000
2	Loss of Estate	Nil	15,000
3	Transportation	Nil	10,000
4	Loss of Love and Affection	1,00,000 (Rs.50,000/- each for parents) 20,000 (Rs.10,000/- each for children)	1,60,000 (Rs.40,000/- each for parents and children)
5	Loss of Consortium	50,000	40,000
6	Loss of Income	10,20,000	16,06,500
	Total Compensation is fixed at	12,15,000	18,46,500

13. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.18,46,500/-. Accordingly, the award amount stands increased from a sum of Rs.12,15,000/- to Rs.18,46,500/-. In all other aspects, the award of the Tribunal stands confirmed. It is also made clear that the increased amount will also be awarded to the claimants in a same proportion as determined by the



C.M.A.No.1843 of 2022

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14. In the result, this Civil Miscellaneous Appeal is partly allowed and the appellant/insurance company is directed to deposit a sum of Rs.18,46,500/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.1822 of 2013 on the file of the Special District Court, Motor Accident Claims Tribunal, Salem. Upon such deposit, the Tribunal is directed to transfer the entire amount to the respective bank accounts of the claimants, as per the proportion determined by the Tribunal, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

02.01.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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C.M.A.No.1843 of 2022

KRISHNAN RAMASAMY,J.

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To:

The Special District Court,
Motor Accident Claims Tribunal, Salem

C.M.A.No.1843 of 2022

02.01.2024

8/8