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C.M.A.No.1905 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2024

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.1905 of 2021

1.Vijaya, aged about 38 years

W/o.Meganathan

2.Vijayakumar, aged about 24 years

S/o.Meganathan

3.Ammu, aged about 22 years

W/o.Saravanan

4.Ajithkumar, aged about 18 years

S/o.Meganathan

All are residing at

Pillaiyar Kovil Street

Thurinjapuram Colony

Thurinjapuram Post

Thiruvannamalai Taluk

... Appellants

Vs.

1.Sunil Yadhav

No.821, Parti, Schme

114, Indore District

Madhyapradesh State 452 001

(Since R1 remained exparte before the Tribunal
its presence may be dispensed with)

2.Divisional Manager

National Insurance Company Limited

No.9, Infantry Road

First Floor

Near Alankar Theatre

Vellore 1.

... Respondents



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Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 13.01.2020 made in MACTOP.No.223/2017 on the file of the Motor Accident Claims Tribunal, the Special Sub Court, Tiruvannamalai.

For Appellants : Ms.M.Malar

For Respondents : Mr.P.Sankaranarayanan (for R2)

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 13.01.2020 made in MACTOP.No.223/2017 on the file of the Motor Accident Claims Tribunal, the Special Sub Court, Tiruvannamalai.

2.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.223 of 2017 by the Special Sub Court, Tiruvannamalai. 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 Meganathan filed MCOP.No.223 of 2017, seeking compensation and filed this Appeal on the



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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 & PW2 were examined & Ex.P.1 to Ex.P.6 were marked and on the side of the Respondents, none was examined 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 48 years and accordingly multiplier “13” was rightly applied by the Tribunal. The date of the accident is 29.09.2016. As per the oral evidence of PW1, who is the widow of



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deceased (Meganathan), the deceased is said to have been employed as Water Tank Operator and he was also doing agriculture and earned a sum of Rs.10,000/- per month. However, no independent witness was examined to substantiate the same and the Tribunal has fixed the notional income of Rs.7,500/- per month and considering the number of dependants (i.e.,) 4, 1/3rd deduction was made, for future prospects 25% was added to the notional income by the Tribunal.

8.Taking into consideration the nature of avocation of the deceased, this Court is of the considered view that notional income may be fixed at Rs.8,500/- per month. Accordingly, notional income of the deceased is fixed at Rs.8,500/- per month. After adding 25% towards future prospects, monthly income comes to Rs.10,625/- (Rs.8,500/- + Rs.2,125/-). Since the dependants are 4 in number, 1/4th has to be deducted towards personal expenses of the deceased, and hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$\text{Rs.10,625/-} \times 12 \times 13 \times \frac{3}{4} = \text{Rs.12,43,125/-}$$

9.The 1st claim Petitioner as the wife of the deceased is entitled for



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Rs.40,000/- towards loss of consortium. The claim Petitioners 2 to 4, who are the sons and daughter of the deceased are entitled for 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.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	1243125
2	Loss of consortium	40000
3	Loss Love and affection	120000
4	Funeral expenses	15000
5	Loss of Estate	15000
	Total Compensation	1433125
	Rounded off to	1433000

In total, the claim Petitioners are entitled to a sum of Rs.14,33,000/- (Rupees fourteen lakh and thirty three thousand only).

10.In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.12,56,836/- to Rs.14,33,000/- to the extent indicated above with 7.5% interest per annum. No Costs.



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(ii) the Insurance Company is directed to deposit the enhanced award amount, with interest 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.

(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.

03.01.2024

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

sai

To

The Presiding Officer
Special Sub Court



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Motor Accident Claims Tribunal
Tiruvannamalai.

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RMT.TEEKAA RAMAN.J,

sai

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Dated: 03.01.2024