



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED:24.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY**

**C.M.A.No.2443 of 2022**

Bharathi

.. Appellant

**Vs.**

1. P.Senthilkumar

2. The Branch Manager,  
IFFCO TOKIO General Insurance Co. Ltd.,  
No.138/2 II Floor, LMR Shopping Arcade,  
Opposite to MGM Theatre,  
Namakkal-637001.

.. Respondents

**Prayer:** This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 15.12.2021 made in M.C.O.P.No.1163 of 2020, on the file of Motor Accidents Claims Tribunal/Special District Court for Motor Accident Claims Cases, Krishnagiri.

For Appellant : Mr.S.Ramprabu  
for Mr.S.P.Yuaraj  
For Respondents : No apperance (R1)  
Mr.S.Arunkumar (R2)

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## **J U D G M E N T**

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This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 15.12.2021 made in M.C.O.P.No.1163 of 2020 on the file of Motor Accident Claims Tribunal, Special District Court for Motor Accident Claims cases, Krishnagiri.

2. The appellant is the claimant in M.C.O.P.No.1163 of 2020 on the file of *Motor Accidents Claims Tribunal, Special District Court for Motor Accident Claims Cases, Krishnagiri*. They filed the above said claim petition, claiming a sum of **Rs.50,00,000/-** as compensation for the death of Vinodh, who died in an accident that took place on 04.07.2016.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent act of the driver of the Lorry, belonging to the 1st respondent and directed the 2<sup>nd</sup> respondent-Insurance Company to pay a sum of **Rs.17,83,600/-** as compensation to the appellant.



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

5. The learned counsel for the appellant contended that at the time of accident, deceased Vinodh was pursuing LLB in JSS Law College, Bangalore and also doing his family business and was earning a sum of Rs.30,000/- per month, but the Tribunal while determining the compensation towards Loss of Dependency has fixed only a sum of Rs.9,000/- as monthly income of the deceased which is very low and requested this Court to fix a sum of Rs.18,000/- as monthly income of the deceased. He further submitted that the compensation awarded by the Tribunal under other heads is also very low and the same needs to be enhanced.

6. Per contra, learned counsel appearing for the 2nd respondent- Insurance Company submitted that no proof of income was filed by the Appellant to show that the deceased was earning a sum of Rs.30,000/- per month and therefore the Tribunal taking note of the age of the deceased,



evidence of P.W.1- claimant, has fixed a sum of Rs.9,000/- per month which is reasonable, however, he fairly submitted that a sum of Rs.14,000/- may be fixed as monthly income of the deceased.

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. Considering the submissions made by the learned counsel for the Appellant as well as Respondents, this Court is inclined to fix a sum of Rs.14,000/- as monthly income of the deceased and by adding future prospects @ 40% the monthly income of the deceased comes to Rs.19,600/- (14000+5600) and the annual income comes to Rs.2,35,200/- (19600x12). By deducting 50% towards personal expenses and by adopting multiplier 17 as per the decision of Hon'ble Supreme Court in the case of **SARLA VERMA AND OTHERS VS. DELHI TRANSPORT CORPORATION AND ANOTHER** reported in (2009) 4 MLJ 997, the compensation awarded by the Tribunal towards Loss of dependency is modified to **Rs.19,99,200/-** (2,35,200-1,17,600x17).



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9. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby 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, reduced or granted |
|-------|--------------------|---------------------------------|-----------------------------------|-------------------------------------------------|
| 1.    | Loss of dependency | 17,13,600/-                     | 19,99,200/-                       | Enhanced                                        |
| 2.    | Loss of Estate     | 15,000/-                        | 15,000/-                          | Confirmed                                       |
| 4.    | Funeral expenses   | 15,000/-                        | 15,000/-                          | Confirmed                                       |
| 5.    | Loss of Consortium | 40,000/-                        | 40,000/-                          | Confirmed                                       |
|       | <b>Total</b>       | <b>Rs.17,83,600/-</b>           | <b>Rs.20,69,200/-</b>             | <b>Enhanced by Rs.2,85,600 /-</b>               |

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.17,83,600/- is hereby enhanced to Rs.20,69,200/- 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 the award amount now determined



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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.1163 of 2020** on the file of the Motor Accidents Claims Tribunal, Krishnagiri, Special District Court for Motor Accident Claims Cases, Krishnagiri. On such deposit being made, the Tribunal is directed to transfer the Award amount, as apportioned by the Tribunal, directly to the Bank account of the Appellant/Claimant through RTGS, within a period of **three weeks**. The appellant/claimant shall pay necessary Court fee, if any, on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

**24.01.2024**

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Index : Yes / No

Internet : Yes / No



C.M.A.No.2443 of 20

To  
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**KRISHNAN RAMASAMY, J.**

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