



C.M.A.No.3172 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Reserved on 06.02.2024	Pronounced on 16.02.2024
---------------------------	-----------------------------

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3172 of 2021

1.Inayath
S/o.Mohammed Basha

2.Jerina
W/o.Inayath

Both are residing at No.1311
Ramnagar, Hosur
Krishnagiri District 635 109

... Appellants

Vs.

1.M/s.Ashok Leyland Limited
Corporate Office,
No.1, Sardar Patel Road, Guindy
Chennai 600 032

2.The Branch Manager
New India Assurance Company Limited
LCO, Tarapore Towers
3rd Floor, 826, Annasalai
Chennai 600 002

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the
Judgment and Decree dated 25.01.2021 made in MCOP.No.932 of 2019 on the



C.M.A.No.3172 of 2021

file of the Motor Accident Claims Tribunal, Special District Court for Motor Accident Claims Cases, Krishnagiri.

For Appellants : Mr.S.P.Yuaraj

For Respondents : Mr.J.Chandran (for R2)

J U D G M E N T

The Appeal has been filed against Judgment and Decree dated 25.01.2021 made in MCOP.No.932 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court for Motor Accident Claims Cases, Krishnagiri.

2.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.932 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court for Motor Accident Claims Cases, Krishnagiri. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The parents of the deceased Idhayath filed MCOP.No.932 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court for Motor Accident Claims Cases, Krishnagiri, seeking compensation and filed this Appeal on the point of contributory negligence and quantum.



C.M.A.No.3172 of 2021

WEB COPY

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.7 were marked and on the side of the Respondents, RW1 & RW2 were examined and Ex.R.1 to Ex.R.5 were 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 Tribunal has fixed 20% as contributory negligence on the part of the claim Petitioners as the rider of the two wheeler does not possess valid driving license and three persons were travelling in a two wheeler at the time of the accident. Based on the evidence of PW1/1st claim Petitioner and



C.M.A.No.3172 of 2021

PW2/eyewitness coupled with Ex.P1/FIR, the same is reduced and fixed at 10%.

8.At the time of the accident, the deceased was aged 29 years and was doing fruit business and therefore, the Tribunal has fixed the monthly income at Rs.9,000/- per month. Based on the oral and documentary evidences, this Court fixes the same at Rs.13,000/- per month. The Tribunal has taken '17' as multiplier and deducted 50% towards personal expenses of the deceased as he died as bachelor and added 40% towards future prospects of the deceased. The same are hereby confirmed. Hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$[\text{Rs.13,000/-} + (40\% \text{ of } 13,000\text{-})] \times 1/2 \times 12 \times 17 = \text{Rs.18,56,400/-}$$

9.The Tribunal has awarded a sum of Rs.80,000/- to the claim Petitioners towards loss of consortium, a sum of Rs.15,000/- towards loss of Estate and a sum of Rs.15,000/- towards funeral expenses. The same are hereby confirmed. The Tribunal has not awarded anything towards transportation charges, hence a sum of Rs.15,000/- is awarded towards transportation charges.



C.M.A.No.3172 of 2021

S.No.	Head	Amount (Rs.)
1	Pecuniary loss	1856400
2	Loss of consortium	80000
3	Loss of estate	15000
4	Funeral expenses	15000
5	Transportation charges	15000
	Total Compensation	1981400
	After deducting 10% towards contributory negligence	1783260
	Rounded off	1783300

In total, the claim Petitioners are entitled to a sum of Rs.17,83,300/- (Rupees seventeen lakh eighty three thousand and three hundred only) and the interest awarded by the Tribunal at the rate of 7.5% per annum is also confirmed.

10. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.11,16,160/- to Rs.17,83,300/- to the extent indicated above. No Costs.

(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



C.M.A.No.3172 of 2021

eight weeks from the date of receipt of a copy of this order.

WEB COPY

(iii) on such deposit being made, 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.

16.02.2024

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

sai



C.M.A.No.3172 of 2021

WEB To COPY

The Special District Judge
Special District Court for Motor Accident Claims Cases
Krishnagiri



WEB COPY



C.M.A.No.3172 of 2021

RMT.TEEKAA RAMAN.J,

sai

Pre-delivery Judgment made in

C.M.A.No.3172 of 2021

Dated: 16.02.2024