



C.M.A.No.2363 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2024

C O R A M

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

C.M.A.No.2363 of 2023

1.K.Santhiya
2.Kaliyammal
3.Madhavan

...Appellant

Vs

1.C.Srirangaye
2.The New India Assurance Co.Ltd.,
T.P.Hub, Bombay Mutual Building,
No.232, 6th Floor, NSC Bose Road,
Chennai 600 001.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation in the judgment and decree dated 07.01.2023 made in MCOP.No.2456 of 2019 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai.



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For Appellant : Mr.S.Devasundaram
For Respondent : R1- set ex-parte
Mr.C.Ramesh Babu for R2

JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging the quantum of compensation awarded by the Tribunal.

2. The case of the petitioner is that on 03.04.2019 at about 07:00 hours, while one Kaali was riding a motor cycle from Chennai to Bangalore Main Road, a lorry bearing Registration No.TN54 K 9659 came in a rash and negligent manner and dashed the said Kaali. Due to the said accident, he was died on the spot. At the time of accident, the deceased was aged about 34 years and he was working as a Surveyor, whereby drawing the salary of a sum of Rs.23,009/- per month. In this regard, the claimants had produced the salary certificate of the deceased before this Court.

3. The grievance of the appellant is that though the deceased was drawing



the salary for a sum of Rs.23,009/- per month, the Tribunal had only taken a sum of Rs.20,000/- for the purpose of awarding the compensation to the claimants under the head “loss of income”. Hence, the learned counsel for the appellant would submit that the entire amount has to be taken for fixing notional income of the deceased. Further, he would contend that no future prospect was added by the Tribunal while awarded compensation on the ground that the wife of the deceased got compassionate appointment. Hence, the present appeal.

4. In reply, the learned counsel for the respondent would submit that there is no doubt that as per the salary certificate, the salary of the deceased is a sum of Rs.23,009/-. However, the said amount includes the medical allowance of Rs.300/- and house rent allowance of Rs.800/- and the same has to be deducted while awarding the compensation. Further, he would fairly submit that as per the law laid down by the Hon'ble Apex Court, 50% may be added to the notional income as future prospect.

5. Heard the learned counsel for the appellants and the respondent and



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also perused the materials available on record.

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6. In the present case, the respondent had rightly contended that out of the total salary of Rs.23,009/-, the medical allowance of Rs.300/- and house rent allowance of Rs.800/- has to be deducted. Hence, after the said deduction, the total amount of salary has to be considered for the purpose of determining notional income will come around a sum of Rs.21,909/- (Rs.23,009 – Rs.1,100).

7. The other aspect raised by the appellant was that the future prospect was not awarded by the Tribunal since the wife of the deceased had got compassionate appointment.

8. As far as the above aspect is concerned, this Court is of the considered view that the compensation has to be awarded based on the loss of income of the deceased. Further, if he is alive, there is no necessity for his wife to go for an employment and in such case, she will take care of the family. However, now she has to look for someone else to take care of her family, otherwise she has to put some extra efforts to take care of her family by herself. When such being the



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case, the approach adopted by the Tribunal in this aspect is not proper and the same is incorrect.

9. Therefore, since at the time of accident, the deceased was aged about 34 years, this Court is inclined to grant future prospect of 50%. Hence, income of the deceased after deduction of medical and house rent allowance is a sum of Rs.21,909/-. By adding 50% as future prospects, the notional income would come around:

$$\text{Rs.21,909/- (income) + Rs.10,955/- (50\% future prospects) = Rs.32,864/-}$$

10. Further, 1/3 has to be deducted from the aforesaid amount towards the personal expenses of the deceased. Hence, after deducting, it would come around:

$$\text{Rs.32,864} - (1/3) = \text{Rs.21,909/-}$$

11. Further, since age of the injured is 34 years, this Court is inclined to



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apply the multiplier of '16' as per the law laid down by the Hon'ble Apex Court and the loss of income was calculated as follows:

$$\text{Rs.21,909 (income)} * 16(\text{multiplier}) * 12(\text{months}) = \text{Rs.42,06,528/-}.$$

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	Loss of Income	25,60,000	42,06,528
2	Loss of Estate	15,000	15,000
3	Loss of Consortium (3 person)	1,20,000	1,20,000
4	Funeral Expenses	15,000	15,000
	Total Compensation is fixed at	27,10,000	43,56,528

13. Therefore, the amount awarded by the Tribunal stands increased from a sum of Rs.27,10,000/- to Rs.43,56,528/-. In all other aspects, the award of the Tribunal stands confirmed.

14. In the result, this Civil Miscellaneous Appeal is allowed and the 2nd respondent/insurance company is directed to deposit a sum of Rs.43,56,528/-



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along with interest and costs, less the amount already deposited, if any, within a period of 8 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.3456 of 2019 on the file of the Motor Accident Claims Tribunal, Chief Small Causes Court, Chennai. Further, the appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the respective bank accounts of the claimants by way of RTGS, in the same proportions determined by the Court below, within a period of 3 weeks from the deposit and 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.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

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To:

The Motor Accident Claims Tribunal,
Chief Small Causes Court, Chennai

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