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CMA.Nos.2410, 2411 and 2419/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM:

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

CMA.Nos.2410, 2411, 2419 of 2022

- | | |
|---|---------------------------------|
| 1.Parameshwari | ... Appellant in CMA/2410/2022 |
| 2.Suba @ Subalakshmi | ... Appellant in CMA/2411/2022 |
| 3.Neelavathi | |
| 4.Elumalai | |
| 5.Vasanth (Minor) | |
| 6.Madhumitha (Minor) | ... Appellants in CMA/2419/2022 |
| (Minor appellants 5 and 6 are rep.
By their Grand mother and
NF Neelavathi) | |

-Vs-

- | | |
|--|----------------------------|
| 1.G.Ashok Kumar | |
| 2.National Insurance Company Limited,
(Motor Third Party Cell),
Regina Mansion, 3 rd Floor,
No.46, Moore Street,
Chennai – 600 001. | ...Respondents in all CMAs |

Common Prayer: Civil Miscellaneous Appeal filed under Section 173 of



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the Motor Vehicles Act, 1988, against the Judgment Decree dated 18-12-2020 and made in MACT.OP.Nos.8992, 8991 & 8993 of 2015 on the file of the Motor Accident Claims Tribunal, in the Special Sub Court No.1, (Motor Accident Claims Petitions) Small Causes Court, Chennai.

In all CMAs:

For Appellant	: Mr.A.G.F.Terry Chella Raja
For R1	: Ex-parte
For R2	: Mr.R.Premchander

COMMON JUDGMENT

Challenging the quantum of compensation awarded by the Tribunal, in MCOP.Nos.8992, 8991 and 8993 of 2015 respectively, the present Civil Miscellaneous Appeals came to be filed by the appellants.

2.The appellants are the claimants in MCOP.Nos.8992, 8991 and 8993 of 2015 on the file of *Motor Accidents Claims Tribunal, Special Sub Court No.1, (Motor Accident Claims Petitions) Small Causes Court, Chennai*. As far as MCOP.Nos.8991 and 8992 of 2015 are concerned, they came to be filed seeking a compensation of Rs.5,00,000/- and Rs.6,00,000/- for the injuries sustained by the respective claimants in the



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accident that took place on 29.10.2015. As regards MCOP/8993/2015, it came to be filed by the legal heirs of one Revathi, who died in the very same accident which occurred on 29.10.2015, seeking a compensation of Rs.25,00,000/-.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to the rash and negligent driving by the driver of the 1st respondent and directed the 2nd respondent- Insurance Company to pay a sum of **Rs.30,000/-, Rs.95,250/- and Rs.14,70,200/-** as compensation to the respective claimants in MCOP.Nos.8991, 8992 and 8993 of 2015.

4.Challenging the quantum of compensation awarded by the Tribunal, the appellants have come out with the present appeals.

5.The learned counsel appearing for the appellants submitted that as far as CMA/2411/2022 is concerned, though the doctor who treated the appellant determined the disability of the appellant at 20%, the Tribunal awarded a lumpsum sum of Rs.30,000/- as compensation to the appellant,



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which is on the lower side. For an accident which occurred in the year 2015, the Tribunal normally awards a sum of Rs.5,000/- for every percentage of disability. Therefore, he contended that a reasonable sum may be awarded as compensation to the appellant and accordingly, the Award of the Tribunal in MCOP/2411/2022 be redetermined.

6.As far as CMA/2410/2022 is concerned, the learned counsel for the appellant submitted that the claimant suffered multiple fracture injuries and the doctor who examined the claimant determined his disability at 25%. The Tribunal however, had taken only 10% as the disability and awarded a sum of Rs.3,000/- for every percentage of disability, which is on the lower of side. He further submitted that for the accident which took place in 2015, the Tribunal ought to have awarded Rs.5,000/- for every percentage of disability. He therefore, contended that the Award of the Tribunal in MCOP/8992/2015 has to be redetermined. He however, fairly submitted that the compensation awarded by the Tribunal under all other heads are just and reasonable and that the same may be confirmed.



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7.As far as CMA/2419/2022 is concerned, the learned counsel submitted that the claimants are the parents and minor children of one Revathi, who died in the accident which took place on 29.10.2015. He would further submit that the victim was 28 years old at the time of the accident and was working as operator and earning Rs.7,500/- per month. The Tribunal however, fixed the notional income of the victim at Rs.6,000/- which is on the lower side. He therefore, submitted that the compensation awarded by the Tribunal under the head 'loss of dependency' in MCOP/8993/2015 has to be redetermined. He however, fairly submitted that the compensation awarded by the Tribunal under all other heads are just and reasonable and that the same may be confirmed.

8.The learned counsel for the second respondent/insurance company submitted that the award of the Tribunal as far as CMA/2410 & 2411/2022 are concerned, they are just and reasonable and that the same may be confirmed. He further submitted that in CMA/2419/2022, the first two claimants are the mother and father of the deceased and the claimants 3 and 4 are the minor children of the deceased. Therefore, he contended that the claimants 1 and 2 are not the legal heirs of the deceased and hence, no



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compensation has to be awarded to them.

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9.In reply, the learned counsel appearing for the appellants would submit that the husband of the deceased had abandoned the deceased and her two minor children and they were living with her mother and father. Therefore, he submitted that the claimants 1 and 2 were also dependent on the deceased and have to be adequately compensated.

10.Considered the submissions of the learned counsel for the appellants and the second respondent and perused the materials placed on record.

11.As far as CMA/2411/2022 is concerned, a lumpsum of Rs.30,000/- was awarded by the Tribunal, when the disability of the claimant was determined at 20% by the doctor who examined the claimant. When the Tribunal opted to adopt the percentage method for determining the compensation for an accident which occurred in the year 2015, it should have awarded Rs.5,000/- for every percentage of disability. In the instant case, the Tribunal has just awarded Rs.1,500/- for every percentage



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of disability, which is on the lower side. Therefore, this Court now fixes the percentage of disability at 15% and awards Rs.5,000/- for every percentage of disability. Accordingly, the Award of the Tribunal at **Rs.30,000/-** stands enhanced to **Rs.75,000/-**.

12. As far as CMA/2410/2022 is concerned, the dispute is only with regard to the compensation awarded by the Tribunal under the head 'disability'. Though the disability of the claimant was determined at 25% by the doctor who examined him, the Tribunal had taken the percentage of disability at 10% and awarded Rs.3,000/- for every percentage of disability, which is on the lower side. This Court therefore, now fixes the percentage of disability at 20% and awards Rs.5,000/- for every percentage of disability and accordingly, awards Rs.1,00,000/- under the head 'disability'. The compensation awarded by the Tribunal under all other heads are just and reasonable and the same stands confirmed. Accordingly, the Award of the Tribunal in MCOP/8992/2015 is redetermined as below;

Sl. No	Description	Amount awarded by Tribunal	Amount awarded by this	Award confirmed or enhanced or
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		(Rs)	Court (Rs)	granted
1.	Disability	30,000/-	1,00,000/-	Enhanced
2.	Pain and Sufferings	20,000/-	20,000/-	Confirmed
3.	Extra Nourishment	10,000/-	10,000/-	Confirmed
4.	Transport Charges	3,000/-	3,000/-	Confirmed
5.	Attender Charges	2,250/-	2,250/-	Confirmed
6.	Loss of Earnings	10,000/-	10,000/-	Confirmed
7.	Loss of Future Prospects	20,000/-	20,000/-	Confirmed
	Grand Total	95,250/-	1,65,250/-	Increased by 70,000/-

13.As far as CMA/2419/2022 is concerned, the deceased was 28 years old at the time of the accident and was working as an operator at the relevant time and earning Rs.7,500/- per month. However, the Tribunal fixed the notional income of the deceased at Rs.6,000/-, which is on the lower side. This Court therefore, now fixes the notional income of the deceased at Rs.7,500/- and by adding 40% towards future prospects and deducting 1/4th towards the personal expenditure of the victim and applying 17 as the multiplier, the loss of dependency would be arrived at;

$$7,500 + 3,000 (40\%) = 10,500/-$$

$$10,500 \times \frac{3}{4} \times 12 \times 17 = 16,06,500/-$$



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14.The amount awarded by the Tribunal under all other heads are just and reasonable and accordingly, they stand confirmed. The Award of the Tribunal as far as CMA/2419/2022 is concerned, is redetermined as below;

Sl. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of dependency	12,85,200/-	16,06,500/-	Enhanced
2.	Loss of Love and Affection	1,50,000/-	1,50,000/-	Confirmed
3.	Loss of Estate	15,000/-	15,000/-	Confirmed
4.	Transport Charges	5,000/-	5,000/-	Confirmed
5.	Funeral Expenses	15,000/-	15,000/-	Confirmed
	Grand Total	14,70,200-	17,91,500/-	Increased by 3,21,300/-

15.In the result, CMA/2411/2022 is partly allowed and the the compensation awarded by the Tribunal at Rs.30,000/- is hereby enhanced to Rs.75,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The second respondent Insurance Company is directed to deposit the award amount now



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determined by this Court, along with interest and costs, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of **MCOP.No. 8991 of 2015** on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.1, Motor Accident Claims Petitions, Small Causes Court, Chennai. On such deposit being made, the Tribunal is directed to transfer the Award amount, 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. No costs.

16.In the result, CMA/2410/2022 is partly allowed and the the compensation awarded by the Tribunal at Rs.95,250/- is hereby enhanced to Rs.1,65,250/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The second respondent Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of **MCOP.No. 8992 of 2015** on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.1, Motor Accident Claims Petitions, Small



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Causes Court, Chennai. On such deposit being made, the Tribunal is directed to transfer the Award amount, 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. No costs.

17.In the resut, CMA/2419/2022 is partly allowed and the compensation awarded by the Tribunal at Rs.14,70,200/- is hereby enhanced to Rs.17,91,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The first appellant/claimant will be entitled to Rs.2,91,500/-, the second appellant/claimant will be entitled to Rs.1,00,000/- and the minor claimants 3 and 4/appellants 3 and 4 will be entitled to Rs.7,00,000/- each. The second respondent Insurance Company is directed to deposit the award amount now determined by this Court, along with interest and costs, within a period of **six weeks** from the date of receipt of a copy of this judgment to the credit of **MCOP.No. 8993 of 2015** on the file of the Motor Accidents Claims Tribunal, Special Sub Court No.1, Motor Accident Claims Petitions, Small Causes Court, Chennai. On such deposit being made, the



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Tribunal is directed to transfer the Award amount, directly to the Bank account of the appellants 1 to 4 through RTGS, in the proportion as determined by this Court, within a period of **three weeks**. The compensation amount pertaining to the minor claimants 3 and 4 is directed to be deposited in a nationalised Bank in the interest bearing Fixed Deposit till the minors attain the age of majority and the natural guardian of the minors viz., Neelavathi is permitted to withdraw the accrued interest on the deposit of the minors once in six months. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. No costs.

06.03.2024

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Index : Yes / No

Internet : Yes / No

To

1.The Motor Accident Claims Tribunal,
Special Sub Court No.1,
Motor Accident Claims Petitions,
Small Causes Court, Chennai.



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2.The Section Officer,
V.R.Section, High Court, Madras.

KRISHNAN RAMASAMY, J.,

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