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C.M.A.No.2336 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.2336 of 2023

1. A.Uma

2.K.Thamizharasan .. Appellants

..Vs..

1. A.Sakthivel

2. The New India Assurance Company Ltd.,
No.1, Bharathi Road, Arcot Woodlands Building,
Cuddalore. .. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 25.02.2021 made in M.C.O.P.No.3422 of 2015 by the learned Motor Accident Claims Tribunal/I Additional District & Sessions Judge, Cuddalore.

For Appellant : Ms.Ramya V.Rao

For Respondents : Ms.A.Salomi (R2)

J U D G M E N T



This Civil Miscellaneous Appeal has been filed seeking for enhancement of compensation granted by the award dated 25.02.2021 made in M.C.O.P.No.3422 of 2015 on the file of the Motor Accident Claims Tribunal/I Additional District and Sessions Judge, Cuddalore.

2. The Appellants are the Claimants in M.C.O.P.No.3422 of 2015 on the file of *Motor Accidents Claims Tribunal, I Additional District and Sessions Judge, Cuddalore*. They filed the above said claim petition, claiming a sum of **Rs.25,00,000/-** as compensation for the death of one K.Manikandan, who died in an accident that took place on 03.08.2015.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that when the deceased was driving Harvestor vehicle bearing Registration No.TN-23-AV-2185, a person crossed the road and therefore the deceased turned the vehicle due to which, the accident said to have been taken place and the Tribunal directed the 2nd Respondent-Insurance Company to pay a sum of **Rs.10,98,400/-** as compensation to the Appellants and thereafter to recover the same from the 1st Respondent.

4.Not being satisfied with the amount awarded by the Tribunal, the



Appellants have come out with the present appeal seeking enhancement of the compensation.

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5.The learned counsel appearing for the Appellants contended that the accident occurred in the year 2015 and at the time of accident the deceased Manikandan was a driver and was earning a sum of Rs.15,000/- per month, but without taking note of the same, the Tribunal fixed only a sum of Rs.7,000/- as notional income of the deceased while determining the compensation towards ***Loss of Income*** and hence she requested this Court to atleast fix the notional income of the deceased at Rs.12,000/- per month. She further submitted that no compensation was awarded towards ***Loss of Estate*** and the total compensation awarded by the Tribunal is very low and therefore seeks for enhancement.

6.Per contra, learned counsel appearing for the 2nd respondent- Insurance Company contended that the deceased has not possessed driving license at the time of accident and that apart since no documents were produced to prove the income of the deceased, the Tribunal has rightly fixed the notional monthly income of the deceased at Rs.7,000/- which requires no interference. However, he fairly agreed that a sum of Rs.11,000/- may be



fixed as notional income.

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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. It is the case of the Appellants that at the time of accident, the deceased was aged 25 years and working as a Van driver and earning a sum of Rs.15,000/- per month. But no documents have been filed to that effect and that apart no driving license of the deceased was produced. Therefore, the Tribunal, considering the age of the deceased, has fixed the monthly income at Rs.7,000/- per month, which in the opinion of this Court is very low. The Hon'ble Supreme Court in the case of *Syed Sadiq Vs. Deputy Manager, United India Insurance Co. Ltd., (2014 (1) TNMAC 459)* fixed the notional income of the vegetable vendor at Rs.6,500/- per month, for the accident that took place in the year 2014 and that apart the cost of living has been increased enormously and salary of even unskilled workers being increased substantially.

9. In view of the aforesaid position and considering the year of accident,



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this Court deems it fit to fix a sum of Rs.11,000/- as notional monthly income of the deceased. Hence, a sum of Rs.11,000/- per month is fixed as notional income of the deceased and by adding future prospects @ 40%, the monthly income of the deceased comes to Rs.15,400/-(11000+4400) and the annual income comes to Rs.1,84,800 (15,400x12). By deducting 50% towards personal expenses and by adopting multiplier 18 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 Income is modified to **Rs.16,63,200/-** (1,84,800-92,400x18) and hence the compensation towards Loss of Income is enhanced from Rs.10,98,400/- to **Rs.16,63,200/-**. Since no compensation was awarded towards Loss of Estate, a sum of Rs.15,000/- is awarded under the said head. The compensation awarded towards **Funeral Expenses** is enhanced from **Rs.10,000/-** to **Rs.15,000/-**. 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 re-determined as follows:



S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income	10,58,400/-	16,63,200/-	Enhanced
2.	Loss of Love and Affection	20,000/-	20,000/-	Confirmed
3.	Loss of Estate	NIL	15,000/-	Granted
4.	Transport Expenses	10,000/-	10,000/-	Confirmed
5.	Funeral Expenses	10,000/-	15,000/-	Enhanced
	Total	Rs.10,98,400/-	Rs.17,33,200/-	Enhanced by Rs.6,24,800/-

9.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at **Rs.10,98,400/-** is hereby enhanced to **Rs.17,33,200/-** together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The Claimants are entitled to compensation as apportioned by the Tribunal. The 2nd respondent-Insurance Company is directed to deposit the award amount now determined 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.3422 of 2015** on the file of the Motor Accidents Claims Tribunal, Additional District and Sessions Judge,



Cuddalore. On such deposit being made, the Tribunal is directed to transfer the respective shares of the claimants, directly to the Bank account of the appellants/claimants through RTGS, within a period of **three weeks**. The appellants/claimants 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.

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Index : Yes / No

Internet : Yes / No

To



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1.The New India Assurance Company Ltd.,
No.1, Bharathi Road, Arcot Woodlands Building,
Cuddalore.

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2. The Motor Accident Claims Tribunal/I Additional District
& Sessions Judge, Cuddalore.

3.The Section Officer,
VR Section,
High Court,
Madras.

KRISHNAN RAMASAMY, J.

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