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C.M.A.No.3025 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

C O R A M

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

C.M.A.No.3025 of 2023

1.Kavitha
2.Santhi
3.Krishnan

...Appellant

Vs

1.Kuppusamy
2.The Reliance General Insurance Company Ltd.,
570, Naigaum Cross Road,
Next to Royal Industrial Estate,
Wadala (W), Mumbai 400 031.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order made in MCOP.No.196 of 2012 on the file of the Motor Accident Claims Tribunal cum Sub Court, Sankari dated 28.03.2017 and for enhancement of compensation.

For Appellant : Mr.C.Kulanthaivel

For Respondent : Ms.G.Sukumari for R2



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C.M.A.No.3025 of 2023

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 16.02.2012, while one Gopi was standing at the left side of the road, a lorry bearing Registration No.TN-47-X-6845 had come in a rash and negligent manner and dashed against the said Gopi. Due to the said accident, he was died on the spot.

3. The grievance of the appellants is that the Tribunal had fixed a sum of Rs.7,000/- as notional income of the deceased, which is on lower side and requires enhancement. Further, the appellants had produced Ex.A.17 and 18, wherein it has been stated that the salary of the deceased is a sum of Rs.7,200/-.

4. The learned counsel for the appellants would submit that part from the said salary, the deceased was also receiving bonus and other incentives for every year. However, these aspects were not at all considered by the Tribunal.



C.M.A.No.3025 of 2023

Hence, he would request this Court to re-determine the compensation awarded by the Tribunal.

5. In reply, the learned counsel for the respondent would fairly submit that even if the bonus and other incentives were taken into consideration, the salary would not be more than a sum of Rs.9,000/- per month. Therefore, she would request this Court to fix the notional income as a sum of Rs.9,000/- per month. Further, she would request this Court to re-determine the compensation awarded by the Tribunal under the other heads, since the same were not awarded as per the law laid down by the Hon'ble Apex Court.

6. Heard the learned counsel for the appellants and the respondent and also perused the materials available on record.

7. In the present case, considering the above submissions, this Court is inclined to fix a sum of Rs.9,000/- as notional income. By adding 50% as future prospects, the notional income would come around:

$$\text{Rs.9,000/- (income) + Rs.4,500/- (50\% future prospects) = Rs.13,500/-}$$



C.M.A.No.3025 of 2023

WEB COPY

8. Further, 1/3 has to be deducted from the aforesaid amount towards the personal expenses of the deceased and since age of the deceased is 25 years, this Court is inclined to apply the multiplier of '18' as per the law laid down by the Hon'ble Apex Court and the loss of income was calculated as follows:

$$\begin{aligned} &\text{Rs.13,500 (income)} * (2/3) \text{ (personal expenses)} \\ &* 16(\text{multiplier}) * 12(\text{months}) = \text{Rs.19,44,000/-}. \end{aligned}$$

9. In the present case, it appears that the wife and parents are the legal heirs of the deceased and the Tribunal had awarded a sum of Rs.1,50,000/- towards the loss of love and affection, which is on higher side. Hence, this Court is inclined to award a sum of Rs.40,000/- as loss of consortium to the wife of the deceased and a sum of Rs.80,000/- (Rs.40,000/- each) as loss of love and affection to the parents of the deceased. Further, the Tribunal had awarded a sum of Rs.25,000/- towards funeral expenses, which is on higher side and no amount was awarded for loss of estate and transportation. Hence, this Court is inclined to award Rs.15,000/- towards funeral expenses, Rs.15,000/- towards loss of estate and Rs.10,000/- towards transportation.



C.M.A.No.3025 of 2023

WEB COPY 10. 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	14,30,000	19,44,000
2	Loss of love and affection	1,50,000 (for wife and parents)	80,000 (for parents)
3	Funeral Expenses	25,000	15,000
4	Loss of Consortium	Nil	40,000 (for wife)
5	Loss of Estate	Nil	15,000
6	Transportation	Nil	10,000
	Total Compensation is fixed at	16,05,000	21,04,000

11. Therefore, the amount awarded by the Tribunal stands increased from a sum of Rs.16,05,000/- to Rs.21,04,000/-. In all other aspects, the award of the Tribunal stands confirmed.

12. In the result, this Civil Miscellaneous Appeal is allowed and the 2nd respondent/insurance company is directed to deposit a sum of Rs.21,04,000/-



C.M.A.No.3025 of 2023

along with interest at the rate of 7.5% per annum and costs, less the amount already deposited, if any, (excluding the interest for delay period) within a period of 4 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.196 of 2012 on the file of the Motor Accident claims Tribunal, Sub Court, Sankari. 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 following proportions:

- i) a sum of Rs.15,04,000/- to the wife of the deceased; and
- ii) a sum of Rs.3,00,000/- each to the parents of the deceased;

The said deposit shall be made 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.

05.01.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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C.M.A.No.3025 of 2023

To:

The Motor Accident Claims Tribunal,
Sub Court, Sankari.



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C.M.A.No.3025 of 2023

KRISHNAN RAMASAMY,J.

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C.M.A.No.3025 of 2023

05.01.2024