



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment reserved on :06.02.2024

Judgment pronounced on :09.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.3353 of 2021

1.Sathya
2.Selvi
3.Balakrishnan
4.Minor Sarmilavathy
Represented by Guardian / Next Friend
Mother 1st petitioner

...Appellants

Vs.

1.Azhaghudurai
2.New India Assurance Company Limited,
East Coast Chambers,
95, Gn Chetty Road,
T.Nagar, Chennai – 600 017.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award dated 04.08.2021 made in M.C.O.P.No.22 of 2019 on the file of the Motor Accidents Claims Tribunal, (Principal District Judge), Ariyalur.

For Appellant : Mr.P.Parthikannan

For R1 : No appearance

For R2 : Mrs.A.Salomi

**J U D G M E N T**

The claimants are the appellants herein seeking enhancement of compensation awarded in M.C.O.P.No.22 of 2019 on the ground of quantum.

2. For the sake of convenience, the parties are referred as per their ranking before the trial Court.

3. On the point of quantum, both the parties are heard.

4. On behalf of the claimants, P.W.1 to P.W.4 were examined and Exhibits P1 to P15 were marked and on behalf of the respondents, no one adduced evidence and no document was marked.

5. The first claimant Sathya (widow of the deceased) was examined herself as P.W.1 and she deposed that her husband (now deceased) was a driver and marked as Ex.P-5 driving licence. The road accident had taken place on 15.02.2017. After taking treatment for 9 days, he died on 24.02.2017, as could be seen from Ex.P13 discharge summary and as per Ex.P14 and Ex.P15 which are the medical bills to the tune of Rs.1,88,253/-. Considering the year of the accident being 2017 and nature, place and character of the avocation of the deceased being a



driver, I am inclined to fix his notional salary as Rs.13,000/-. As per the decision of the Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others reported in 2017 (2) TN MAC 601***), 40% future prospectus has to be added and as per **[Sarala Verma and Others Vs. Delhi Transport Corporation and another]**, multiplier '17' is to be adopted and since there are more than 3 dependants, 1/4 of deduction has to be made. Accordingly, the pecuniary loss sustained by the family is re-assessed is as follows:-

$(13,000 + 5200 (40\% \text{ of } 13000) \times 12 \times 17 \times 3/4 = \text{Rs.}27,84,600/-$.

6. Taking into consideration the fact that the first claimant is the widow of the deceased, she is entitled for Rs.40,000/- towards loss of consortium, as awarded by the Tribunal, is hereby confirmed. The claimants 2 & 3 are entitled for loss of love and affection at Rs.75,000/- each and the minor daughter of the deceased-4th claimant is entitled to Rs.60,000/-.

7. The Tribunal had not awarded any amount towards transport charges and the same is hereby awarded at Rs.15,000/-.

8. Accordingly, Rs.15,000/- is awarded towards loss of estate.



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9. The amount awarded by the Tribunal towards funeral expenses at Rs.15,000/- is hereby confirmed.

10. The amount awarded by the Tribunal towards medical bills as per Ex.P14 and P15 Rs.1,88,253/- is hereby confirmed.

11. Accordingly, the award of the Tribunal in M.C.O.P.No.22 of 2019 is modified as follows:

<i>Sl. No.</i>	<i>Particulars</i>	<i>Amount granted by the Tribunal</i>	<i>Amount granted by this Court</i>
1.	Loss of income	Rs. 16,06,500/-	Rs.27,84,600 /-
2.	Loss of consortium	Rs. 40,000/-	Rs. 40,000/-
3.	Loss of funeral expenses	Rs. 15,000/-	Rs. 15,000/-
4.	Medical Bills	Rs. 1,88,253/-	Rs. 1,88,253/-
5.	Loss of love and affection to the claimants 2 and 3	Rs. 15,000/-	Rs.1,50,000/-
6.	Loss of love and affection to the minor daughter	-----	Rs. 60,000/-
7.	Transport charges	-----	Rs. 15,000/-
8	Loss of Estate	-----	Rs. 15,000/-
	Total	Rs. 18,64,753/-	Rs. 32,67,853/-

The compensation awarded by the Tribunal is enhanced from



Rs.18,64,753/- to Rs.32,67,853/- which shall carry interest at the rate of 7.5% per annum.

12. In the result,

(i) The Civil Miscellaneous Appeal is allowed in part. No costs.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.18,64,753/- to Rs.32,67,853/-

(iii) The Insurance Company is directed to deposit the compensation of Rs.32,67,853/-together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No. 22 of 2019, on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Ariyalur within a period of twelve weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the first appellant/claimant/wife is permitted to withdraw her share of the amount and apportionment of award amount as ordered by the Tribunal. The appellants/claimants shall pay necessary additional court fee, if any, on the enhanced compensation.

(v) As far as the share of the minor claimant 4 is concerned, the same shall be invested in any Nationalised Bank in an interest bearing fixed deposit and the interest thereon shall be withdraw by the first claimant once in three months for the welfare of the minor and the said deposit shall be renewed periodically till she attains majority. Apportionment award amount as ordered by the Tribunal is kept intact.



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Index : Yes/No
Speaking/non-speaking order

To

1. The Motor Accident Claims Tribunal,
(Principal District Judge), Ariyalur
2. The Section Officer,
V.R.Section, High Court, Chennai.



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RMT.TEEKAA RAMAN,J.,

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Judgment in
C.M.A.No.3353 of 2011



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