



C.M.A.No.2697 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM

**THE HONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL**

C.M.A.No.2697 of 2023

1.Padmavathy
2.Murugan

..Appellants

Vs.

1.P.Elumalai
2.United India Insurance Company Limited
No.134, Greams Road,
IV Floor, Anna Salai, Chennai 600 006.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 19 of Family Courts Act against the judgment and decree dated 11.07.2022 made in M.A.C.T.O.P.No.2395 of 2018 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.

For Appellant : Ms.A.Subadra

For Respondent : Mr.P.Sankaranarayanan for R2



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J U D G M E N T

(The order of the Court was made by J.Nisha Banu,J.)

The appellants/claimants, not being satisfied with the quantum of compensation awarded by the Tribunal, have filed this appeal against the award passed in M.A.C.T.O.P.No..2395 of 2018 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai, seeking for enhancement of compensation.

2. The Claimants are the Appellants and the 1st respondent is the owner of the lorry and the 2nd respondent is the Insurance Company.

3. The claimants have filed the claim petition claiming a sum of Rs.1,50,00,000/-/- as compensation for the fatal accident relating to the death of appellants' son viz.Sabarenath.

4. According to the appellants/claimants, on 28.01.2018 at about 12.20 p.m., while the deceased was riding motorcycle bearing registration No.TN-03-U-6800 at 200 feet road near Philips godown,



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Manjambakkam, Chennai, a lorry bearing registration No.TN-02-BC-6135 driven by its driver in a rash and negligent manner hit the motorcylce from behind. Due to which, the deceased fallen down and the offending vehicle viz., Lorry ran over the deceased and thereby he sustained fatal injuries and died.

5. The deceased was aged about 25 years, worked as Commercial Apprentice in Railways and earned Rs.60,000/- per month. He also got selected for the post of Probationary Officers in JMG Scale I. Therefore, the claimants claimed a sum of Rs.1,50,00,000/- as compensation and the Tribunal, awarded a sum of Rs.22,37,000/-. Praying for just compensation for the death of the deceased son, the appellants/ claimants have filed the present CMA.

6. Heard the learned counsel for the appellants and learned counsel for the 2nd respondent Insurance Company. The 1st respondent remained exparte before the Tribunal. We perused the materials available on record.



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7. The main ground urged by the learned counsel for appellants is that deceased earned Rs.60,000/- per month, whereas the Tribunal fixed Rs.13,000/- per month for the year 2018 as notional income and from that 50% of the income of the deceased was deducted as the personal expenses. It is further submitted that the deceased was selected as a Probationary Officer in JMG scale-1, whereas the Tribunal without considering the same, fixed the income of the deceased as Rs.13,000/-. The learned counsel for the appellants also prayed for awarding compensation under the heads loss of consortium, damages, mental agony and loss of expectation of life.

8. The learned counsel for the 2nd respondent would submit that the Tribunal granted compensation by following the principles laid down by the Supreme Court and submitted that no interference is warranted in the said award.

9. The accident had taken place in the year 2018. The deceased was aged about 25 years and was working in Mechanical Engineering Division, Railways and he was selected as Probationary Officers in JMG



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Scale-1. In such circumstances, taking monthly income as Rs.13,000/- for the deceased is not just and proper. Therefore, we fix a sum of Rs.22,000/- as notional monthly income of the deceased and 40% is added towards future prospects. Deduction of 50% of the income as personal expenditure of the deceased, is in line with the judgement of the Apex Court in *Sarla Varma* case reported in **2009 2 TANMAC 1**. Thus, the compensation under the head “Loss of dependency” is calculated as follows :-

<i>Monthly Income</i>	:	Rs. 22,000/-
 Add: Future Prospects 40% of Rs.22000/-	:	Rs. 8,800/- ----- Rs. 30,800/-
 Annual Income (22,000 x 12)	:	Rs. 3,69,600/-
Less : Personal expenses Rs.2,52,000/- x 1/2	:	Rs. 1,84,800/- ----- Rs. 1,84,800/-
 Multiplier	:	 x 18 -----
 Loss of income/dependency	:	 Rs.33,26,400/- -----



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10. The compensation that has been granted under other heads are reasonable and therefore, the same does not require interference by this Court.

11. In the light of the above discussion, this Court modifies the compensation in the following manner:-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	Rs.33,26,400/-
2.	Loss of estate	Rs. 16,500/-
3.	Funeral expenses	Rs.16,500/-
4.	Loss of love and affection	Rs.88,000/-
5.	Transport Expenses	Rs.10,000/-
	Total	Rs.34,57,400/-

12. In the result, this CMA is Partly Allowed.

(i) The compensation awarded by the Tribunal at Rs.22,37,000/- is enhanced to Rs.34,57,400/-.

(ii) The 2nd respondent Insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit, within a period of six weeks from the date of receipt of this



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judgment.

(iii) The appellants viz., father and mother of the deceased are entitled to 50% : 50% in the total compensation of Rs.34,57,400/-.

(iv) The other directions issued by the Tribunal with regard to mode of payment of compensation remains unaltered.

No costs.

nvsri

(J.N.B,J.) (R.S.V., J.)
19.11.2024

To

The Motor Accident Claims Tribunal,
II Court of Small Causes, Chennai.



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and
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