



C.M.A.No.187 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

C O R A M

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

C.M.A.No.187 of 2024

1.Thondiammal
2.Sangeetha
3.Sowmiya

...Appellant

Vs

1.M.Sampathkumar
2.The United India Insurance Company Limited,
Silingi Building, 134/40,
42,Greams Road,
Chennai 600 006.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award against the judgment and decree dated 17.11.2022 and made in MCATOP.No.5761 of 2017 on the file of the Motor Accident Claims Tribunal, Special Motor Accident Compensation Claims Tribunal, Special Sub Court No.I, Motor Accidents Claims Petitions, Small Causes Court, Chennai.



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For Appellant : Ms.A.Subadra

For Respondent : Mr.D.Bhaskaran for R2

JUDGMENT

This civil miscellaneous appeal has been filed to enhance the compensation awarded vide the judgement dated 17.11.2022 in M.A.C.T.O.P.No.5761 of 2017.

2. The learned counsel for the appellants would submit that on 07.04.2017, while one Palaniyappan was walking in Velachery Tambaram Main Road, a car bearing Registration No.TN-25-AK-9555 came in a rash and negligent manner and dashed against the said Palaniyappan, due to which, he sustained grievous injuries and died on 21.04.2017 at Government Hosptial. Considering all the aspects the Tribunal had awarded the following compensation:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Dependency	10,16,400
2	Loss of Consortium	1,20,000



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<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
3	Loss of Estate	15,000
4	Funeral Expenses	15,000
	Total	11,66,400

3. By referring the above compensation awarded by the Tribunal, he would submit that at the time of accident, the deceased was earning around a sum of Rs.15,000/-, however, the Tribunal had taken only a sum of Rs.10,000/- as notional income of the deceased. Hence, he prays this Court to fix a sum of Rs.15,000/- as notional income of the deceased and enhance the compensation and to confirm the award in all other aspects.

4. In reply, though the learned counsel for the respondent had initially objected for the enhancement of compensation, thereafter, he suggests this Court to fix a sum of Rs.13,500/- as notional income of the deceased. The said amount was also accepted by the learned counsel for the appellant.

5. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.



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6. In view of the above, this Court is inclined to fix a sum of Rs.13,500/- as notional income of the deceased instead of Rs.10,000/-. Hence, considering the age of the deceased this Court is inclined to add 10% as future prospects and apply 11 as multiplier and deduct 1/3rd towards the personal expenses of the deceased. Accordingly, the loss of income would be calculated as follows:

$$\begin{aligned} & \text{Rs.13,500/- (notional income) + Rs.1,350/- (10\% future prospects)} \\ & * 11 \text{ (multiplier)} * 12 \text{ (months)} * 2/3 \text{ (dependency)} = \text{Rs.13,06,800/-} \end{aligned}$$

7. Further, it appears that no amount has been awarded towards transportation, hence, this Court is inclined to award a sum of Rs.10,000/- for transportation.

8. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Dependency	10,16,400	13,06,800
2	Loss of Consortium	1,20,000	1,20,000
3	Loss of Estate	15,000	15,000



S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
4	Funeral Expenses	15,000	15,000
5	Transportation	Nil	10,000
	Total	11,66,400	14,66,800

9. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.14,66,800/-. Accordingly, the award amount stands enhanced from a sum of Rs.11,66,800/- to Rs.14,66,800/-. In all other aspects, the award of the Tribunal stands confirmed. The compensation awarded by this Court shall be distributed to the claimants in the following proportions:

- a) to the 1st appellant/wife of the deceased – Rs.8,66,800/-;
- b) to the appellants 2 and 3/children of the deceased – Rs.3,00,000/- each;

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the respondent is directed to deposit a sum of Rs.14,66,800/- along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MCATOP.No.5761 of 2017 on the file of the Special Motor Accident



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Compensation Claims Tribunal, Special Sub Court No.I, Motor Accidents

Claims Petitions, Small Causes Court, Chennai. 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 proportions determined by this Court, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimants or application for withdrawal from the claimants, whichever is earlier. No costs.

01.02.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa

To:

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

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KRISHNAN RAMASAMY,J.

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