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C.M.A.No.2941 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2941 of 2024

- 1.Munusamy
- 2.Minor.Rukesh
- 3.Minor.Dhaneshwari

Minors 2 and 3 are being minors and hence
represented by their Father and natural guardian
Munusamy ... Appellants

Vs.

- 1.Vasantham Enterprises
- 2.Iffco Tokio General Insurance Company Limited,
D.O;T.P.Cell No.128, 2nd and 3rd Floor,
Habibulla Road, T.Nagar,
Chennai – 600 017. ... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow appeal and to enhance the amount awarded in M.C.O.P.No.3182 of 2020 on the file of Motor Accidents Claims Tribunal, (Special Sub Judge No.I, Court of Small Causes, Chennai) as prayed for.

For Appellants : Mr.U.Chithambaram
For Respondents : Ms.K.Poomalai for R2



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J U D G M E N T

This appeal has been filed by the appellants/ claimants challenging the order passed in M.C.O.P.No.3182 of 2020 dated 03.02.2024 by the Motor Accidents Claims Tribunal, (Special Sub Judge No.I, Court of Small Causes, Chennai).

2.The learned counsel appearing for the appellants submitted that on 28.10.2020 at about 16.30 hours, the deceased Suguna was travelling as pillion rider in the motorcycle bearing Registration No.TN-18-H-4981 at GNT Road, from Kavarapettai to Gumudipoondi direction, near Kavarapettai Over Bridge. At that time, the driver of the lorry bearing Registration No.TN-18-AZ-5838 which came in the same direction, drove the vehicle in a rash and negligent manner and dashed against the motorcycle, due to which, she lost her life.

3.The learned counsel appearing for the appellants further submitted that thereafter, the husband and sons of the deceased Suguna/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.30 Lakhs as compensation for the death of Suguna. After adjudication, the



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Tribunal awarded a sum of Rs.21,71,000/- as compensation along with interest at the rate of 7.5% per annum from the date of filing of the petition till the realization with costs. Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants further submitted that the accident is of the year 2020, however, the Tribunal fixed the notional monthly income of the deceased as Rs.12,000/- and awarded a meagre compensation to the claimants and hence, the appellants are entitled for enhanced compensation.

5.Per contra, the learned counsel appearing for the second respondent Insurance Company vehemently contended that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent and perused the materials available on record.



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7.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.20,16,000/- for loss of dependency, Rs.1,20,000/- for loss of consortium, Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.5,000/- for transport expenses and arrived at a total compensation of Rs.21,71,000/- with interest at the rate of 7.5% p.a. from the date of filing of the petition till the realization.

9.The accident is of the year 2020. Hence, this Court fix a sum of Rs.16,000/- as the monthly notional income of the deceased. The Tribunal has rightly awarded 40% of income towards future prospects and has rightly deducted 1/3 of the amount towards personal expenses and has rightly adopted the multiplier 15. Hence, the amount awarded for loss of dependency works out to Rs.26,87,940/-



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[Rs.16,000/- X 40% = Rs.6,400/-; Rs.16,000/- + Rs.6,400/- = Rs.22,400/-; Rs.22,400 X 1/3 = Rs.7,467/-; Rs.22,400/- - Rs.7,467/- = Rs.14,933/-; Rs.14,933/- X 12 X 15 = Rs.26,87,940/-].

10.The amount awarded under the heads loss of consortium and transport charges, in the opinion of this Court are low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for loss of consortium is enhanced to 1,35,000/- from Rs.1,20,000/- and the amount awarded for transport charges is enhanced to 10,000/- from Rs.5,000/-. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are confirmed.

11.Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of dependency	Rs.20,16,000/-	Rs.26,87,940/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
3.	Loss of consortium	Rs. 1,20,000/-	Rs. 1,35,000/-
4.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
5.	Transportation charges	Rs. 5,000/-	Rs. 10,000/-
	Total	Rs.21,71,000/-	Rs.28,62,940/-



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12.The appellants/ claimants are entitled to total compensation of Rs.28,62,940/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the realization.

13.The civil miscellaneous appeal is partly allowed. The order passed in M.C.O.P.No.3182 of 2020 dated 03.02.2024 by the Motor Accidents Claims Tribunal, (Special Sub Judge No.I, Court of Small Causes, Chennai), is modified to the above extent.

14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first appellant is permitted to withdraw his share as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants 2 and 3 are permitted to withdraw their shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and



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necessary application before the Tribunal and on production of necessary proof with regard to their majority. If the appellants 2 and 3 are still minors, their shares shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank, initially, for a period of three years to be renewed at periodic intervals until they attain majority and the interest derived from out of the said share of the minors shall be paid to the first claimant/ father every quarter to be utilized for the welfare of the said minors.

15.The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal, (Special Sub Judge No.I, Court of Small Causes, Chennai), shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

16.The civil miscellaneous appeal is partly allowed. No costs.

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Index: Yes/ No

Speaking Order: Yes/ No

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NCC: Yes/ No



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M.DHANDAPANI,J.
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To

1.The Motor Accidents Claims Tribunal,
(Special Sub Judge No.I, Court of Small Causes, Chennai)

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