IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

C.M.A. No. 3493 of 2021

1. Valli
2. Harish
3. Minor.Aarthi
4. Minor. Ashok
   [Minor appellants represented by their mother
   viz., Valli, the first appellant herein]
5. Chinnan ... Appellants / Petitioners

Vs.

1. Mrs.Tvl. Sivapriya Exim Private Limited,
   No.1721, 1st street, Anna nagar,
   Chennai-600040.

2. The Manager,
   United India Insurance Co. Ltd.,
   No.33, Whites Road,
   Chennai- 600014. ... Respondents / Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Award and Decree dated 05.01.2021 passed in M.C.O.P. No.555 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

For Appellants	:	Mr.S.P.Yuaraj
For R1	:	No appearance
For R2	:	M/s.R.Sreevidhya

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimants seeking quantum of compensation awarded in M.C.O.P. No.555 of 2019, dated 05.01.2021 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The petitioners are the wife, children and father of the deceased Perumal.

4. The only grievance raised in this appeal is that the notional income fixed for the death of the deceased is not in accordance with the norms followed by this Court and eventhough the deceased Perumal herein who was working as a Sweet Maker (manual worker) the notional income fixed by the Tribunal for awarding compensation needs to be enhanced.

5. The learned counsel for the respondent has opposed for enhancement of compensation on the ground that the Tribunal after considering the evidences placed on record and no income proof has been produced, the Tribunal has rightly fixed the quantum of compensation.

6. I have considered the rival submissions made on both sides and also perused the records.

7. It is true that the claimants were not able to prove the monthly income of the deceased Perumal and eventhough they were able to produce the Salary Certificate - Ex.P5 to show that he was the employed at New Surya Sweets, Madiwala, Bangalore, but no additional documents to support the income of the deceased has been produced. However, the Tribunal has fixed the notional income of the deceased as Rs.9,000/- per month. This Court has consistently following the Division Bench Judgment of this Court in ***Andal and others vs. Avinav Kannan and others [2019 (1) TN MAC 54 (DB)]*** by adopting the cost of index, fixed the notional income of the person who were not able to prove the income. Admittedly, in this case, the deceased was aged about 44 years at the time of accident and was a Sweet

Maker i.e., manual worker, the Judgment of this Court cited supra, the applicable notional income based on the cost of index is as follows:

S.No.	***Financial Year***	***Cost of Inflation Index***
1	*2001-2002*	*100*
2	*2002-2003*	*105*
3	*2003-2004*	*109*
4	*2004-2005*	*113*
5	*2005-2006*	*117*
6	*2006-2007*	*122*
7	*2007-2008*	*129*
8	*2008-2009*	*137*
9	*2009-2010*	*148*
10	*2010-2011*	*167*
11	*2011-2012*	*184*
12	*2012-2013*	*200*
13	*2013-2014*	*220*
14	*2014-2015*	*240*
15	*2015-2016*	*254*
16	*2016-2017*	*264*
17	*2017-2018*	*272*
18	*2018-2019*	*280*
19	*2019-2020*	*289*
20	*2020-2021*	*301*
21	*2021-2022*	*317*
22	*2022-2023*	*331*
23	*2023-2024*	*348*

for example: (Rs.6,500/- X 280) / 129 = Rs.14,108.5/- @ Rs.14,109/- (notional income of the deceased)"

8. Hence, this Court is inclined to modify the notional income

fixed by the Tribunal based on the dictum laid down in the Hon'ble Apex Court judgment cited supra and the accident taken place in the year 2018-2019 the income fixed as Rs.14,109/- and the same is calculated as follows:

Date of accident	= 28.08.2018
Cost of Inflation index	= 280 (Financial Year 2018-2019)
Notional income of the deceased	= (6,500/- x 280) / (129)
	= Rs.14,109/-

9. The Tribunal has rightly followed the dictum as laid down by the Hon'ble Apex Court in ***National Insurance Co. Ltd., vs. Pranay Sethi and other [2017(2) TN MAC 609 (SC): 2017 (16) SCC 680]*** fixed 25% as future prospectus and as per the Judment of the Apex Court in ***Sarla Verma and others* Vs. *Delhi Transport Corporation and others [2009 ACJ 1298 SC : 2009 (6) SCC 121]***, the multiplier is fixed as '14' by considering the age of the deceased is 44 at the time of the accident. The dependants of the deceased are five in number hence deduction of 1/4 made towards his personal expenses. Hence loss of dependency is assessed as follows:

Annual income (Rs.14,109/- x 12)	= Rs.1,69,308/-
add Future prospects @ 25%	= Rs.42,327/-
Yearly income of the deceased	= Rs.2,11,635/-
Yearly contribution to his family (deduction of 1/4 = Rs.52,908.7/- @ Rs.52,909/-)	= Rs.1,58,726/-
Applicable Multiplier '14'	

(Rs.1,58,726 x 14)
Total Loss of dependency = Rs.22,22,164/-

10. As far as the compensation awarded under other heads are concerned, the Tribunal has rightly awarded just compensation and this Court is inclined to confirm the same. The notional income of the deceased alone is hereby modified.

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.16,47,500/- is hereby enhanced to Rs.24,52,164/- [Rupees Twenty Four Lakhs Fifty Two Thousand One Hundred and Sixty Four only] along with interest at the rate of 7.5% per annum from the date of filing of Claim Petition till the date of deposit, excluding the default period, if any. The second respondent - Insurance Company is directed to deposit the amount now awarded by this Court along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment to the credit of M.C.O.P.No.555 of 2019 on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri. On such deposit, the appellants are permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if

any, already withdrawn, as per the apportionment fixed by the Tribunal. The Tribunal shall disburse the amount now awarded by this Court by directly giving credit to the Savings Bank Account of the claimants. The share of the minor appellants are directed to be deposited in any one of the Nationalized Bank till the minor appellants attains majority. On such deposit, the first appellant being the mother of the minor appellants is permitted to withdraw the accrued interest once in three months for the welfare of the minor appellants. Since this Court has enhanced the compensation, the appellants/claimants are directed to pay the necessary Court fee, if any, on the enhanced compensation. There shall be no order as to costs in the present appeal.

08.01.2024

ssi
Index:Yes/No
Speaking Order:Yes/No
Neutral Citation Case: Yes/No

K. RAJASEKAR, J.

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To:

1. The Special District Judge,
   Motor Accident Claims,
   Krishnagiri.

2. The Section Officer,
   V.R.Section,
   High Court,
   Chennai.

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