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C.M.A.No.3546 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2024

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3546 of 2021

1.P.Angulakshmi

2.A.Andivel

... Appellants

..Vs..

1.C.Kannaiyan

2.United India Insurance Company Limited

Divisional Office, 139, Kumaran Road

Thiruppur Branch Office

82, Sri Lakshmi Complex,

Sathyamangalam Taluk

Erode District.

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, against the award and decree dated 03.02.2021 made in M.C.O.P No.161 of 2018 on the file of the Motor Accident Claim Tribunal (Subordinate Judge), Satyamangalam.

For Appellants

: Mr.R.Nalliyappan

For Respondents

: Mr.S.Arunkumar for R2

No Appearance for R1



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J U D G M E N T

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2. The appellants are the parents of the deceased Harish Karthick, who died as a result of an accident caused by a vehicle insured with the second respondent.

3. The Tribunal under the impugned award has directed the second respondent/Insurance Company to pay the appellants/claimants a compensation of Rs.18,84,400/- as detailed hereunder:

<i>Heads</i>	<i>Award Amount (Rs.)</i>
Loss of Income	18,14,400/- (Rs.12,000/- + (40% future prospects) 4,800 = 16,800/- / 2 = 8400 x 12 x 18)
Funeral Expenses	15000/-
Transport Expenses	15,000/-/-
Loss of Love and Affection	40,000/-
Total	18,84,400/-



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4. The appellants/claimants are unsatisfied with the quantum of compensation awarded by the Tribunal.

5. The deceased was a final year B.E student. The Tribunal has fixed his monthly income at Rs.12,000/-. The learned counsel for the appellant would contend that the monthly income fixed by the Tribunal is too low and it has to be enhanced. The accident happened in the year 2018. Being a final year B.E student, the Tribunal ought to have fixed his notional monthly income at higher sum instead of erroneously fixing at Rs.12,000/- per month. If the Tribunal had given due consideration to the year of the accident which happened in the year 2018 and had also given due consideration to the fact that the deceased was a final year B.E student, the Tribunal ought to have fixed the notional monthly income of the deceased at Rs.16,000/-. But, the Tribunal has erroneously fixed the notional monthly income of the deceased at Rs.12,000/-. Accordingly, this Court enhances the notional monthly income of the deceased from Rs.12,000/- to Rs.16,000/-. The Tribunal has also erroneously awarded a meager compensation of Rs.40,000/- towards loss of love and affection. Though as



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per the settled law, since the appellants are the parents of the deceased, each of them are entitled to Rs.40,000/- each as compensation towards loss of love and affection. Hence, the compensation awarded by the Tribunal to the appellants/claimants towards loss of love and affection is enhanced from Rs.40,000/- to Rs.80,000/- by this Court as per the settled law.

6. Admittedly, the deceased was a bachelor at the time of the accident. However, under the impugned award, the Tribunal has erroneously failed to deduct 50% towards personal expenses of the deceased. Since this Court has enhanced the notional monthly income of the deceased to Rs.16,000/- from Rs.12,000/- and has also deducted 50% towards personal expenses of the deceased, the loss of income payable to the appellants/claimants at Rs.24,19,200/- is detailed hereunder:

$$Rs.16,000/- + 40\% \text{ future prospects} = Rs.22,400 (-)$$

$$50\% \text{ personal expenses} = Rs.11,200/- \times 12 \times 18 =$$

$$Rs.24,19,200/-$$



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7. The Tribunal has also failed to award any compensation towards loss of estate which the appellants/claimants are legally entitled to as per the settled law. This Court in accordance with the settled law awards a compensation of Rs.15,000/- to the appellants/claimants towards loss of estate. Since it is a fatal accident, the Tribunal ought to have awarded compensation towards loss of estate, but instead has erroneously awarded compensation towards transportation which the appellants/claimants are not entitled to in view of the fact that the accident has resulted in the death of the accident-victim.

8. Insofar as the compensation awarded by the Tribunal under various other heads is concerned as detailed supra, the same does not call for any interference from this Court as the compensation awarded under those heads is a just compensation.

9. For the foregoing reasons, the compensation awarded by the Tribunal is enhanced from Rs.18,84,400/- to Rs.25,29,200/- as detailed hereunder:



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<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Award Amount (Rs.)</i>
Loss of income	18,14,400/- (12000/- + (40% future prospects) 4,800 = 16,800/- / 2 = 8,400 x 12 x 18)	24,19,200/- (16000 + 40% =22,400/- (-) 50% personal expenses= 11,200 x 12 x 18)
Funeral Expenses	15,000/-	15,000/-
Transport Expenses	15,000/-	Nil
Loss of Love & affection	40,000/-	80,000 /-
Loss of Estate	Nil	15,000/-
Total	18,84,400/-	25,29,200/-

10. In the result, this appeal is partly allowed. However, the rate of interest fixed by the Tribunal at the rate of 7.5% is confirmed. The 2nd Respondent/Insurance Company is directed to deposit the modified award amount i.e, **Rs.25,29,200/-** along with interest and costs, after deducting the amount already deposited, if any, to the credit of MCOP.No.161 of 2018 within a period of six weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of award amount as per the ratio apportioned by the



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Tribunal to the bank accounts of the Appellants/Claimants along with accrued interest through RTGS within a period of two weeks thereafter. No costs.

25.06.2024

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

1. The Motor Accident Claims Tribunal
Subordinate Judge,
Satyamangalam
- 2.The Section Officer
V.R.Section, High Court of Madras.



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ABDUL QUDDHOSE, J.
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