



C.M.A.No.2941 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.2941 of 2023

1. S.Devi

2. R.Selvam

... Appellants/Petitioners

Vs.

1. M.S.Kaffer

2. M/s.United India Insurance Company Limited

C/o.Motor III Party Claims Office,

134, Greams Road, 4th Floor,

Silingi Buildings, Chennai 600 006.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Judgment and decree made in MCOP.No.917/2017 on the file of Motor Accident Claims Tribunal, Special Sub Judge, Court of Small Causes at Chennai dated 27th day of February 2023.

For Appellants : Mr.T.G.Balachandran

For R1 : N/D/W vide Court order dated
07.12.2023

JUDGEMENT

This Civil Miscellaneous Appeal has been filed, challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Sub Court No.2, Small Causes Court, Chennai in M.C.O.P.No.917 of 2017 dated 27.02.2023, the claimants are before this Court.



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2. The appellants/petitioners before the Tribunal are the father and mother of deceased Bhoopalan. On 19.12.2016 at about 12.15 hours, the deceased was riding a two wheeler bearing Reg.No.TN-10-AX-6351, he was hit by a lorry, bearing Reg.No.TN-20-S-6152, which came in a rash and negligent manner behind the back of the deceased, and due to the said accident, the deceased sustained serious head injury and died. Thereafter, the appellants have filed a claim petition, claiming compensation of Rs.50,00,000/-.

3. The learned counsel for the appellants submitted that the Tribunal had erred in fixing the notional income of the deceased at Rs.10,000/- per month, without taking into account the educational qualification of the deceased Bhoopalan, which is on the lower side, including the future prospects of 40%, which requires to be reconsidered by this Court. Accordingly, he prays for appropriate enhancement of compensation in favour of the appellants.

4. In reply, the learned counsel appearing for the second respondent/Insurance Company submitted that, it would be appropriate to revise the notional monthly income of the deceased as Rs.12,000/- per month.



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5. Heard the learned counsel for the appellants and the learned counsel appearing on behalf of the second respondent and perused the materials available on record.

6. The fact and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the appellants is with regard to the quantum of compensation awarded. This Court is of the considered view, that the suggestion of the learned counsel for the appellant to re-determine the notional income, it appears to be reasonable. Therefore this Court is inclined to fix the notional income of the deceased at Rs.13,500/-, out of which, 40% has to be added towards future prospects i.e., a sum of Rs.5,400/-, which totals a sum of Rs.18,900/-. Deducting 50% towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.9,450/- per month and the deceased being aged about 20 years at the time of accident, as evidenced from the records, and adopting the multiplier of 18 as fixed by the Apex Court, the loss of income to the family is arrived at Rs.9,450/-x12x 18=Rs.20,41,200, which is worked out as follows:-



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<i>Loss of Income</i>	<i>Amount in Rs.</i>
Notional income (Per month)	13,500
Add: Future Prospects (Rs.13,500 x 40%) (Per month)	5,400
	18,900
Less: Personal expenses (50%) (Rs.18,900/- x 50/100) (Per month)	9,450
	9,450
Notional income (per annum) (Rs.9,450/- x 12)	1,13,400
Multiplier	18
Total	20,41,200

7. Consequently, the sum of **Rs.15,12,000/-** awarded by the Tribunal under the head of “Loss of Dependency” is hereby modified as **Rs.20,41,200/-**. Insofar as the compensation awarded by the Tribunal under other heads is concerned, this Court finds the same to be just and proper and the same is hereby confirmed. No amount has been awarded by the Tribunal under the head of “Transportation”. Therefore, this Court is inclined to award a sum of Rs.10,000/- towards transportation.

8. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-



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<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Total loss of dependency	15,12,000/-	20,41,200/- (enhanced)
Loss of constorium	80,000/-	80,000/-
Funeral expenses	15,000/-	15,000/-
Transportation	Nil	10,000/-
Loss of estate	15,000/-	15,000/-
Total	16,22,000/-	21,61,200/-

9. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.16,22,000/-** to **Rs.21,61,200/-**. The second respondent/Insurance Company is directed to deposit the said amount along with interest and cost, 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.917 of 2017 on the file of Special Sub Court No.2, Motor Accidents Claims Petitions, Small Causes Court, Chennai. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the respective bank accounts of the claimants, as per the proportion determined by the Tribunal, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from



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the claimants or application for withdrawal from the claimants, whichever is later. The appellants/claimants are directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee has been produced by the claimants. No costs.

04.01.2024

Index : Yes / No
NCC : Yes / No
jd

To

1. The Motor Accident Claims Tribunal,
Special Sub Court No.2, Small Causes Court,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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Krishnan Ramasamy,J.,

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