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C.M.A.No.3102 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.3102 of 2023

1. Thirugnana Samantham
2. Vijayalakshmi
3. Nagarajan .. Appellants

Vs.

1. Sarath Babu
2. The Manager
United India Insurance Co.Ltd.,
Motro 3rd Paty Claims Cell, No.43/397,
Annai Indira Gandhi Road,
Rajajipuram, Tiruvallur-02. .. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.09.2022 made in M.C.O.P.No.52 of 2022 on the file of Motor Accident Claims Tribunal No.1, Special District Court, Thiruvallur.

For Appellants : Mr.V.Karthick
for Ms.A.Jagadeeswari
For Respondents : Mr.J.Michael Visuvasam (R2)



J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 30.09.2022 made in M.C.O.P.No.52 of 2022 on the file of the Motor Accident Claims Tribunal No.1, Special District Court, Thiruvallur.

2. The appellants are the claimants in M.C.O.P.No.52 of 2022 on the file of *Motor Accidents Claims Tribunal, No.1, Special District Court, Thiruvallur*. They filed the above said claim petition, claiming a sum of **Rs.40,00,000/-** as compensation for the death of one Kalikadevi, who died in an accident that took place on 06.04.2022.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of **Rs.9,56,964/-** as compensation to the appellants.

4.Not being satisfied with the amount awarded by the Tribunal, the appellants have come out with the present appeal seeking enhancement of



compensation.

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5. The learned counsel appearing for the appellants contended that the deceased Kalikadevi was leading a self help group and was also doing Saree business in a small level and was earning a sum of Rs.30,000/- per month but the Tribunal has fixed only a sum of Rs.10,000/- as monthly income while determining the compensation towards loss of income which is very low. He further submitted that the compensation awarded towards other heads are also low and the same needs to be enhanced.

6.Per contra, learned counsel appearing for the 2nd respondent-Insurance Company contended that the total compensation awarded by the Tribunal under various heads is not meagre and the appellants have not made out any case for enhancement of compensation. However, he fairly submitted that this Court may fix the notional income based on the cost of living index at the relevant point of time.

7.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent-Insurance Company and



perused the entire materials on record.

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8. It is the case of the appellants that at the time of accident the deceased was aged 58 years and was leading a self help group and doing Saree business in small level and was earning a sum of Rs.30,000/- per month. Since no proof of income was produced, the Tribunal taking note of the Judgment of Hon'ble Apex Court in the case of ***Lata Wadhwa Vs. State of Bihar*** reported in ***(2001) 8 SCC 197*** and also the year of accident has fixed the notional income of the deceased @ Rs.10,000/- , which in the opinion of this Court is very low. The accident had taken place in the year 2022. The cost of living has increased enormously and salary of even unskilled workers are substantially high. Hence, a sum of Rs.15,000/- per month is fixed as notional income of the deceased. Therefore, by fixing a sum of Rs.15,000/- per month and by adding 10% towards future prospects and by deducting 1/3rd towards personal expenses and by adopting multiplier 9 as per the decision of Hon'ble Supreme Court in the case of ***SARLA VERMA AND OTHERS VS. DELHI TRANSPORT CORPORATION AND ANOTHER*** reported in ***(2009) 4 MLJ 997***, Loss of Income comes to ***Rs.11,88,000/-*** $(15,000+1500-1/3rd \times 12 \times 9)$ and therefore a sum of ***Rs.11,88,800/-*** is



awarded towards Loss for Income.

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9. The Tribunal has awarded a sum of Rs.16,500, Rs.1,30,000/- and Rs.16,500/- towards loss of estate, loss of consortium and funeral expenses respectively, of which the compensation awarded towards loss of estate and loss of consortium is not in consonance with the ratio laid down by the Hon'ble Apex Court in the case of *National Insurance Company Limited Vs. Pranay Sethi and others* reported in **2017 (2) TANMAC 609 (SC)**. Further, no amount has been awarded under the head love and affection to claimants 2 and 3. In such circumstances, this Court modifies the compensation under the head *loss of estate, loss of consortium, funeral expenses* to **Rs.15,000/-, Rs.40,000/- and Rs.15,000/-** respectively. Further, a sum of **Rs.40,000/-** each is awarded to claimants 2 and 3 under the head loss of *love and affection*. Further, a sum of **Rs.10,000/-** is awarded under the head *Transporation*. Thus, the compensation awarded by the Tribunal is modified as follows:



S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or reduced or granted
1.	Loss of Income	7,91,964/-	11,88,000/-	Enhanced
2.	Loss of Estate	16,500/-	15,000/-	Reduced
3.	Loss of Consortium	1,32,000/-	40,000/-	Reduced
4.	Loss of Love & Affection	NIL	80,000/- (Rs.40,000 * 2)	
5.	Funeral Expenses	15,000/-	15,000/-	Confirmed
6.	Transportation	NIL	10,000/-	Granted
	Total	Rs.9,56,964/- -	Rs.13,48,000/-	Enhanced by Rs.3,91,036 /-

10.In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at **Rs.9,56,964/-** is hereby enhanced to **Rs.13,48,000/-** together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. Out of the said Award amount, the 1st Claimant is entitled to a sum of **Rs.8,48,000/-** and each of the Claimants 2 and 3 are entitled to a sum of **Rs.2,50,000/-**. The 2nd respondent-Insurance Company is directed to deposit the award amount now determined 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.52 of 2022** on the file of the Motor Accidents Claims Tribunal, No.1, Special District Court, Thiruvallur. On such deposit being made, the Tribunal is directed to transfer the respective shares of the Claimants, directly to the Bank account of the Appellants/Claimants through RTGS, within a period of **three weeks thereafter**. The appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

10.01.2024

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To

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1. The Manager
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Rajajipuram, Tiruvallur-02.
2. The Motor Accident Claims Tribunal,
Special District Court, Thiruvallur.
3. The Section Officer,
VR Section,
High Court,
Madras.



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KRISHNAN RAMASAMY, J.

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