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C.M.A.Nos.3599 and 3600 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.3599 and 3600 of 2021

1.Shanmugam
2.Rajamani
3.Ramesh
4.Nandhakumar ... Appellant in C.M.A.3599/2021

Ramesh ... Appellant in C.M.A.3600/2021

Vs.

1.B.Ramachandran
2.The New India Assurance Co. Ltd.,
Branch Office, TP HUB,
Near Rajasabari Theatre,
Sethu Krishna Traders,
Trichy Main Road,
Salem – 6. ... Respondents in both the C.M.As.

Common Prayer:

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award and enhance the compensation amount made in judgment and decree dated 16.08.2021 made in M.C.O.P.Nos.1005 and 1006 of 2015 respectively, on the file of the Motor Accidents Claims Tribunal and Special District Judge, Salem by allowing the civil miscellaneous appeal.



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For Appellants : Mr.S.P.Yuvaraj
For Respondents : R1 – Insufficient address
Mrs.S.R.Sumathy for R2

COMMON JUDGMENT

These appeals have been filed by the appellants/ claimants seeking enhancement of the compensation awarded by the Motor Accidents Claims Tribunal and Special District Judge, Salem, in the judgment dated 16.08.2021 made in M.C.O.P.Nos.1005 and 1006 of 2015 respectively.

2.The brief facts of the case is that on 22.12.2014 at about 10.00 a.m., the deceased Alamelu (M.C.O.P.No.1005 of 2015) and the deceased Poornima (M.C.O.P.No.1006 of 2015) were travelling as passengers in a bus in Salem to Namakkal Main Road near Sanhiyur Branch Road West of Ponnusamy Thottam. At that time, the lorry bearing Registration No.TN 29 AK 6428 which came in the opposite direction in a rash and negligent manner hit against the centre media of the road and hit the bus in which the deceased travelled, due to which, the deceased lost their lives.

3.Thereafter, the dependants of the deceased filed claim



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petitions before the Motor Accidents Claims Tribunal, claiming compensation of Rs.20 Lakhs each. After adjudication, the Tribunal, awarded a sum of Rs.9,29,000/- and Rs.8,41,000/- respectively, with interest at the rate of 7.5% p.a. from the date of petition till the date of realization and proportionate cost and directed the second respondent Insurance Company to pay the compensation. Aggrieved by the same, the injured claimants have filed these appeals seeking enhancement of compensation.

4.The learned counsel appearing for the appellants/ claimants submitted that at the time of accident, the deceased were 35 years and 22 years respectively, at the time of accident and they were earning more than Rs.10,000/- per month, however, the Tribunal fixed the monthly income of the deceased at Rs.7,000/- which is very meagre and further submitted that as per the ratio laid down in the decision of the Hon'ble Apex Court in *Sarla Varma and Ors. v. Delhi Transport Corporation and Anr.* reported in 2009 (2) L.S. 29 (S.C.), the Tribunal ought to have fixed a sum of Rs.12,000/- as the notional income of the deceased and further submitted that the compensation awarded under the other heads are also very very meagre and hence the petitioners are entitled for enhancement in compensation.



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5.The learned counsel appearing for the second respondent

Insurance Company submitted 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 arguments advanced by the learned counsel appearing for the appellants claimants as well as the learned counsel appearing for the second respondent Insurance Company and perused the materials available on record.

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

8.In M.C.O.P.No.1005 of 2015 [C.M.A.No.3599 of 2021], the Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.7,84,000/- for loss of income, Rs.80,000/- for loss of love and affection, Rs.40,000/- for loss of consortium, Rs.25,000/- for funeral expenses and arrived at a total compensation of Rs.9,29,000/-



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with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

9.The accident is of the year 2014. Hence, this Court fix a sum of Rs.12,000/- as the monthly notional income of the deceased and 1/4 of the amount has to be deducted towards personal expenses. The deceased was aged 35 years at the time of death. Hence, the correct multiplier to be adopted is 15. If 40% of notional income is awarded for future prospects, the amount awarded for loss of income works out to Rs.22,68,000/- [Rs.12,000/- X 40% = Rs.4,800/-; Rs.12,000/- + Rs.4,800/- = Rs.16,800/-; Rs.16,800/- X 1/4 = Rs.4,200/-; Rs.16,800/- - Rs.4,200/- = Rs.12,600/-; Rs.12,600/- X 12 X 15 = Rs.22,68,000/-].

10.This Court is of the opinion that some amount has to be awarded for loss of estate. Accordingly, this Court awards a sum of Rs.15,000/- for loss of estate. The amount awarded under the head loss of love and affection, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded for loss of love and affection is enhanced to Rs.1,20,000/- from Rs.80,000/-. The amount awarded



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under the head funeral expenses, in the opinion of this Court is high and this Court is inclined to reduce the amount awarded under the said head. Accordingly, the amount awarded for funeral expenses is reduced to Rs.15,000/- from Rs.25,000/-. The amount awarded under the head loss of consortium, in the opinion of this Court is just and reasonable and the same is 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 income	Rs.7,84,000/-	Rs.22,68,000/-
2.	Funeral Expenses	Rs. 25,000/-	Rs. 15,000/-
3.	Loss of consortium	Rs. 40,000/-	Rs. 40,000/-
4.	Loss of love and affection	Rs. 80,000/-	Rs. 1,20,000/-
5.	Loss of estate	---	Rs. 15,000/-
	Total	Rs.9,29,000/-	Rs.24,58,000/-

12. The claimants are entitled to total compensation of Rs.24,58,000/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of realization.

13. The second respondent Insurance Company is directed to



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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 appellants/ claimants are permitted to withdraw their respective shares 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/ 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 and Special District Judge, Salem, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

14.In M.C.O.P.No.1006 of 2015 [C.M.A.No.3600 of 2021], the Tribunal after elaborately discussing the factual aspects awarded a sum of Rs.7,56,000/- for loss of income, Rs.20,000/- for loss of love and affection, Rs.40,000/- for loss of consortium, Rs.25,000/- for funeral expenses and arrived at a total compensation of Rs.8,41,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.



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15.The accident is of the year 2014. Hence, this Court fix a sum of Rs.12,000/- as the monthly notional income of the deceased and 1/3 of the amount has to be deducted towards personal expenses. The deceased was aged 22 years at the time of death. Hence, the correct multiplier to be adopted is 18. If 40% of notional income is awarded for future prospects, the amount awarded for loss of income works out to Rs.24,19,200/- [$\text{Rs.12,000/-} \times 40\% = \text{Rs.4,800/-}$; $\text{Rs.12,000/-} + \text{Rs.4,800/-} = \text{Rs.16,800/-}$; $\text{Rs.16,800/-} \times \frac{1}{3} = \text{Rs.5,600/-}$; $\text{Rs.16,800/-} - \text{Rs.5,600/-} = \text{Rs.11,200/-}$; $\text{Rs.11,200/-} \times 12 \times 18 = \text{Rs.24,19,200/-}$].

16.This Court is of the opinion that some amount has to be awarded for loss of estate. Accordingly, this Court awards a sum of Rs.15,000/- for loss of estate. The amount awarded under the head funeral expenses, in the opinion of this Court is high and this Court is inclined to reduce the amount awarded under the said head. Accordingly, the amount awarded for funeral expenses is reduced to Rs.15,000/- from Rs.25,000/-. The amount awarded under the head loss of consortium, in the opinion of this Court is just and reasonable and the same is confirmed. Since compensation for loss of consortium has been awarded, the amount awarded under the head loss of love



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and affection, in the opinion of this Court is not necessary and the same is deleted.

17. 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 income	Rs.7,56,000/-	Rs.24,19,200/-
2.	Funeral Expenses	Rs. 25,000/-	Rs. 15,000/-
3.	Loss of consortium	Rs. 40,000/-	Rs. 40,000/-
4.	Loss of love and affection	Rs. 20,000/-	---
5.	Loss of estate	---	Rs. 15,000/-
	Total	Rs.8,41,000/-	Rs.24,89,200/-

18. The claimant is entitled to total compensation of Rs.24,89,200/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of realization.

19. 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 appellant/ claimant is permitted to withdraw the entire award amount, along with accrued



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interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellant/ claimant shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellant/ claimant is directed to pay the requisite Court fee for the enhanced compensation amount, if required. The Motor Accidents Claims Tribunal and Special District Judge, Salem, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellant/ claimant.

20.The civil miscellaneous appeals are partly allowed. The judgment and decree passed by the Motor Accidents Claims Tribunal and Special District Judge, Salem, in the judgment dated 16.08.2021 made in M.C.O.P.Nos.1005 and 1006 of 2015 respectively, is modified to the above extent. No costs.

11.12.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal and
Special District Judge, Salem.

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M.DHANDAPANI,J.
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3600 of 2021**

11.12.2024



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CMA NOS. 3599 and 3600 of 2021
IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-02-2025

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

CMA NOS. 3599 and 3600 of 2021

SHANMUGAM

S/o Palanisamy, Res At Meltheru, Kamalapuram
Post, Omalur Tk, Salem Dt. and 3 Others
Appellant(s) in CMA 3599/2021

RAMESH Appellant in CMA 3600/2021
Vs

B.Ramachandran
S/o Boopathi, No.48, Nallarapalli Village,
Soolagiri Post, Krishnagiri, Hosur. and another
Respondent(s) in both the CMAs.

For Appellant(s):

S.P.Yuaraj

For Respondent(s):

M/s.S.R.Sumathy For R2

R1 - Insufficient Address

COMMON ORDER

The matter is listed today under the caption 'for being mentioned'.

2.The learned counsel appearing for the appellants would submit that the Tribunal had directed the second respondent Insurance Company

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to pay the compensation and to recover the same from the first respondent, however, in the judgment dated 11.12.2024 made in C.M.A.Nos.3599 and 3600 of 2021, inadvertently, it has not been mentioned and prayed for appropriate orders.

3.In view of the above, in the judgment dated 11.12.2024 made in C.M.A.Nos.3599 and 3600 of 2021, the relevant portion at the end of paragraph no.3 is to be read as '**directed the second respondent Insurance Company to pay the compensation and to recover the same from the first respondent**' instead of '**directed the second respondent Insurance Company to pay the compensation**'; and at the end of paragraph nos.12 and 18, the following is to be added '**The pay and recovery ordered by the Tribunal is confirmed.**'

4.Registry is directed to carry out the necessary corrections and re-issue copy of the judgment to the respective learned counsel appearing for the parties.

14-02-2025

To

1. The Motor Accidents Claims Tribunal and Special District Judge, Salem.

2. B.Ramachandran

S/o Boopathi,

No.48, Nallarapalli Village, Soolagiri Post, Krishnagiri, Hosur.

3. The New India Assurance Co Ltd.

Branch Office, Tp Hub Near Rajasabari Theatre, Sethu Krishna Traders, Trichy Main Road, Salem-6.

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