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C.M.A.No.2296 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:24.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.2296 of 2022

1. M.Gandhi
2. Boomadevi

.. Appellants

Vs.

1. R.Ramasamy
2. The Divisional Manager
National Insurance Co. Ltd
Divisional Office, No.110, JN Street,
Puducherry-605001.

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 18.07.2022 made in M.C.O.P.No.3387 of 2018, on the file of Motor Accidents Claims Tribunal/I Additional District and Sessions Judge (FAC) Cuddalore.

For Appellants	:	Ms.Ramya V Rao
For Respondents	:	No appearance (R1) Mr.D.Bhaskaran (R2)



JUDGMENT

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This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 18.07.2022 made in M.C.O.P.No.3387 of 2018 on the file of the III Small Causes Court, (Motor Accidents Claims Tribunal), Chennai.

2. The appellants are the claimants in M.C.O.P.No.3387 of 2018 on the file of *Motor Accidents Claims Tribunal/ 1st Additional District and Sessions Judge (FAC), Cuddalore*. They filed the above said claim petition, claiming a sum of **Rs.50,00,000/-** as compensation for the death of G.Chitrarasan, who died in an accident that took place on 07.05.2018.

3.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent act of the driver of the Hero Honda Splendor, belonging to the 1st respondent and directed the 2nd respondent-Insurance Company to pay a sum of **Rs.28,52,600/-** as compensation to the appellants.



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

5. The learned counsel for the appellants contended that the accident occurred in the year 2018 and at the time of accident deceased G.Chitrarasan was pursuing B.E.Civil Engineering and the Tribunal while determining the compensation towards Loss of Income has fixed only a sum of Rs.16,000/- as monthly income of the deceased which is very low and requested this Court to fix a sum of Rs.20,000/- as monthly income of the deceased. In support of her contention, she relied upon the judgment of the Division Bench of this Court dated **30.06.2023** passed in C.M.A.Nos.2114 & 1134 of 2022 (***The Managing Director Vs. K.Jayalxmi***). She further submitted that the compensation awarded by the Tribunal under other heads are also very low and the same needs to be enhanced.

6. Per contra, learned counsel appearing for the 2nd respondent- Insurance Company submitted that the Tribunal taking note of the



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educational qualification of the deceased at the time of accident and cost of living has fixed a sum of Rs.16,000/- per month which is reasonable, however, he fairly submitted that a sum of Rs.18,000/- may be fixed as monthly income of the deceased.

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.

8. Considering the submissions made by the learned counsel for the Appellants as well as Respondents, this Court is inclined to fix a sum of Rs.18,000/- as monthly income of the deceased and by adding future prospects @ 40% the monthly income of the deceased comes to Rs.25,200/- (18000+7200) and the annual income comes to Rs.3,02,400/- (25200x12). By deducting 50% towards personal expenses and by adopting multiplier 18 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, the compensation awarded by the Tribunal towards Loss of dependency is modified to **Rs.27,21,600/-**



(3,02,400-1,51,200x18)

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9. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. 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, reduced or granted
1.	Loss of income	24,19,200/-	27,21,600/-	Enhanced
2.	Loss of Parental Consortium	88,000/-	88,000/-	Confirmed
3.	Funeral expenses	16,500/-	16,500/-	Confirmed
4.	Loss of estate	16,500/-	16,500/-	Confirmed
5.	Transportation	10,000/-	10,000/-	Confirmed
	Total	Rs.25,50,200/-	Rs.28,52,600/-	Enhanced by Rs.3,02,400 /-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.25,50,200/- is hereby enhanced to Rs.28,52,600/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The Claimants are



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entitled for equal compensation. 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.3387 of 2018** on the file of the Motor Accidents Claims Tribunal, I Additional District and Sessions Judge (FAC), Cuddalore. On such deposit being made, the Tribunal is directed to transfer the Award amount, as apportioned by the Tribunal, after deduction made towards the contributory negligence as ordered by the Tribunal directly to the Bank account of the Appellants/Claimants through RTGS, within a period of **three weeks**. 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.

24.01.2024

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Index : Yes / No

Internet : Yes / No



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C.M.A.No.2296 of 20



To

1. The Divisional Manager
National Insurance Co. Ltd
Divisional Office, No.110, JN Street,
Puducherry-605001.
2. The Motor Accident Claims Tribunal,
I Additional District and Sessions Judge,
(FAC) Cuddalore.
3. The Section Officer,
VR Section,
High Court,
Madras.



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KRISHNAN RAMASAMY, J.

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