



C.M.A.No.1439 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 03.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.1439 of 2023

1.N.Dhanalakshmi

2.Minor. N.Sindhuja

3.Minor. N.Sundar Rajan

4.Minor. N.Aishwarya

.. Appellants

(Minor appellants 2 to 4 represented by
Mother & Next Friend N.Dhanalakshmi,
1st appellant herein)

Vs.

1.A.Kaliyandiraj

(R1 remained exparte before the Tribunal)

2.National Insurance Co. Ltd.,
No.46, Moore Street, Chennai – 600 001.

Now at

“Loyal Tower” 1st Floor, Thirrd Party Cell,
No.6, Grems Road, Chennai – 600 006.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor
Vehicles Act, 1988, praying to set aside the award dated 06.06.2022



C.M.A.No.1439 of 2023

passed by the learned Special Sub Court No.2, Small Causes Court (Motor Accident Claim Tribunal), Chennai, in M.C.O.P.No.7590 of 2017 and award just compensation.

For Appellants : Ms.A.Subadra
for Mr.A.Shanmugaraj

For R2 : Ms.N.B.Surekha

J U D G M E N T

The claimants who are the wife and children of the deceased Nagarajan, not being satisfied with the quantum of compensation, have filed this appeal against the award passed by the Motor Accident Claims Tribunal, Special Sub Court No.2, Small Causes Court, Chennai, in M.C.O.P.No.7590 of 2017 dated 06.06.2022.

2.The case of the claimants is that the deceased Nagarajan was traveling as a passenger in a share auto on 10.05.2017 and the auto driver attempted to stop the vehicle abruptly after seeing a ditch and as a result, the accident took place and the deceased sustained grievous injuries and he died on 12.05.2017. It is under these circumstances, the claim petition came to be filed before the Tribunal.



C.M.A.No.1439 of 2023

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the share auto. After having rendered such a finding, the Tribunal fixed the total compensation of Rs.21,74,500/- under various heads as follows:

1.Total loss of Dependency	-	Rs.19,84,500/-
2.Loss of Consortium	-	Rs.1,60,000/-
3.Loss of Estate	-	Rs.15,000/-
4.Funeral Expenses	-	Rs.15,000/-
Total		Rs.21,74,500/-

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed the present appeal before this Court seeking for enhancement of compensation.



6.Heard the learned counsel for the appellants and the learned counsel for the 2nd respondent.

7.This Court has carefully considered the submissions made on either side and the materials available on record.

8.This Court has also carefully gone through the award passed by the Tribunal.

9.The main ground that was urged by the learned counsel for the appellants is with regard to the notional monthly income that was fixed by the Tribunal and also the non-grant of compensation towards medical expenses by disregarding Exs.P6 to P8.

10.The specific case of the claimants is that the deceased was running a provisional stores. This was spoken by P.W.1, who is the wife of the deceased. Exs.P9 & P10 were marked through her to show that the deceased was running a provisional stores. She has stated that the deceased was earning a monthly income of not less than Rs.20,000/-.

P.W.2 was examined on the side of the claimants and he has stated that



C.M.A.No.1439 of 2023

he was working with the deceased in the provisional stores and he was receiving a monthly salary of Rs.8,000/-. He has further stated that every day there will be business to the tune of Rs.11,000/- to Rs.13,000/- and every month the deceased used to earn atleast Rs.20,000/- to Rs.25,000/-.

11.The Tribunal on considering the oral and documentary evidence, concluded that the notional monthly income can be fixed at Rs.10,500/-. The accident had taken place in the year 2017 and the claimants have made sincere attempts to establish the occupation of the deceased. P.W.2 was examined and Ex.P9 & Ex.P10 were also marked. Therefore, this Court is inclined to fix the notional monthly income at Rs.14,000/-. The deceased was aged about 40 years at the time of accident and therefore, this Court is inclined to add 40% towards future prospects. Thus, the compensation under the head of loss of dependency is calculated as follows:

Monthly income fixed	:	Rs.14,000/-
Future prospects to be added	:	40%
Notional Income arrived at	:	Rs.14,000/- + 40%
		Rs.19,600/-

After deducting 1/4th for



C.M.A.No.1439 of 2023

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personal expenses : Rs.14,700/-

Multiplier to be adopted : 15

Loss of Dependency
Rs.14,700/- X 12 X 15 : Rs.26,46,000/-

12.The accident took place on 10.05.2017 and the deceased was admitted in a Hospital and he died only on 12.05.2017. It is quite apparent from Ex.P6 that a sum of Rs.23,149/- was incurred towards medical expenses. It is also clear from Ex.P8 that a sum of Rs.26,472/- was incurred towards the expenses paid for ambulance. The Tribunal has not taken into consideration these expenses that were incurred and this Court is inclined to grant compensation both under the caption of medical bills and ambulance bill.

13.The compensation that has been fixed under the other heads are reasonable and it does not require the interference of this Court.

14.In the light of the above discussions, the compensation awarded by the Tribunal is modified as follows:

1.Loss of Dependency - Rs.26,46,000/-



C.M.A.No.1439 of 2023

WEB COPY

2.Loss of Consortium	-	Rs.1,60,000/-
3.Loss of Estate	-	Rs.15,000/-
4.Funeral Expenses	-	Rs.15,000/-
5.Medical bills	-	Rs.23,149/-
6.Ambulance bill	-	Rs.26,472/-
Total		<u>Rs.28,85,621/-</u>

15.The compensation awarded by the Tribunal at Rs.21,74,500/- is hereby enhanced to Rs.28,85,621/-. The 2nd respondent is directed to deposit the enhanced compensation together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment, if not already deposited. The Tribunal had ordered for pay and recovery in this case. Therefore, it goes without saying that the enhanced compensation paid by the Insurance Company shall be recovered from the 1st respondent. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



C.M.A.No.1439 of 2023

16.In the result, the Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

03.07.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Special Subordinate Judge No.2,
Motor Accident Claims Tribunal,
Special Sub Court No.2,
Small Causes Court,
Chennai.

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.

N.ANAND VENKATESH, J.



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C.M.A.No.1439 of 2023

krk

C.M.A.No.1439 of 2023

03.07.2024