



C.M.A.No.141 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 29.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

Civil Miscellaneous Appeal No.141 of 2022

1.Saroja

2.Sivakumar

3.Minor Vignesh

4.Minor Perumal

5.Minor Sridevi

... Appellants

[Minor appellants represented by their mother
viz., Saroja, the 1st appellant herein]

Vs.

1.Sathiya Priya

2.The Shriram General Insurance Company Limited,
Having Office at No.4, Lady Desika Road,
Mylapore (Near Alwarpet Signal),
Chennai – 600 053.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award and Decree dated 23.12.2020 made in M.C.O.P.No.763 of 2014 on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Ponneri.



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For Appellants : M/s.A.Subhadrai
For R1 : For R.Sanjay
For R2 : Dispensed with
M/s.R.Sree Vidhya

JUDGMENT

This Civil Miscellaneous Appeal filed by the claimants seeking enhancement of compensation challenging the award passed in M.C.O.P. No.763 of 2014, dated 23.12.2020, on the file of the Motor Accident Claims Tribunal, IV Additional District Judge, Ponneri.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status and ranking before the Tribunal.

3. The claimants have come forward with claim petition seeking compensation for the death of one M.Thangaraj, who died in the road accident taken place on 08.09.2014 at about 11.15 a.m at G.N.T. Road Near Kavangarai Signal, Chennai.



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4. The claimants are the wife and his 4 minor children. They claimed a sum of Rs.20,00,000/- as compensation by invoking Section 166 of the Motor Vehicles Act, 1988.

5. The owner of the offending vehicle/first respondent remained exparte before the Tribunal. The Insurance Company of the offending vehicle / second respondent contested the claim and disputed the manner in which the accident had taken place, age and income of the deceased and dependency of the claimants.

6. The Tribunal considered the evidence placed on record, accepted the case of the claimants held that the driver of the first respondent has negligently drove the vehicle and caused the death of the deceased thereby, the respondents are liable to pay the compensation. The Tribunal has also quantified the compensation by fixing notional income of Rs.8,000/- and also awarded compensation under relevant heads. Challenging the quantum of compensation and for enhancement this appeal is filed by the claimants.



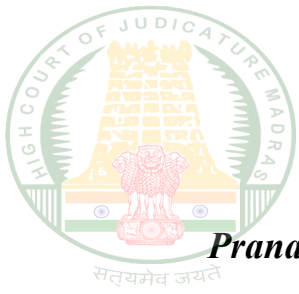
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7. The Insurance Company opposed the contention of the claimants and submitted that there is no proof of income of the deceased has been produced, hence the Tribunal has rightly fixed the notional income at Rs.8,000/- per month and opposed the enhancement.

8. I have considered the rival submissions made on both sides and also perused the records available.

9. The age of the deceased fixed by the Tribunal as 45 years at the time of accident. According to the claimants, the deceased was a Mason involved in construction work, but no evidence regarding his income or avocation is produced. Based on the same, the Tribunal has fixed the notional income of Rs.8,000/- per month. I am of the view that the same is on the lower side and this Court by following the norms for fixing the notional income for the accident taken place during the financial year 2015-2016 fixed the income of deceased as Rs.14,000/- per month.

10. The Tribunal considering the age of the deceased and by following the Apex Court Judgments in *National Insurance Co. Ltd., vs.*



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Pranay Sethi and other reported in ***(2017(2) TN MAC 609 (SC): 2017 (16)***

SCC 680) and ***Sarla Verma and others Vs. Delhi Transport Corporation***

and others [2009 ACJ 1298 SC : 2009 (6) SCC 121], has rightly fixed the future prospects at 25% and fixed the multiplier as '14'. Accordingly, the loss of income of the deceased by considering the number of dependents is calculated as follows: $\{[14000 + 3500 (25\% \text{ of } 14000)] 17500 \times 12 \times 14 \times 1/4 = \text{Rs.}22,05,000/-\}$.

11. The Tribunal has not awarded compensation under the head loss of consortium to all the dependants however, the Tribunal has awarded Rs.1,00,000/- under the head loss of love and affection. This Court is of the view that as per the Judgment of the Apex Court in ***Magma General Insurance Co. Ltd., vs. Nanu Ram and Others [2018 (18 SCC 130 : MANU/SC/1012/2018]*** and ***United India Insurance Co., Limited vs. Satinder Kaur and Ors. [MANU/SC/0500/2020 : (2021) 11 SCC 780]***, the claimants each are entitled for Rs.40,000/- under the head loss of consortium. Hence, the compensation awarded under the head love and affection is hereby modified. As far as the other conventional heads such as Funeral Expenses and Loss of Estate are concerned, this Court is of the view the same are reasonable and the same are hereby confirmed.



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12. Accordingly, the Award passed by the Tribunal under various heads are hereby modified as follows:

S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or reduced
1.	Loss of dependency	Rs.12,60,000/-	Rs.22,05,000/-	Enhanced
2.	Loss of Estate	Rs.15,000/-	Rs.15,000/-	Confirmed
3.	Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
4.	Loss of love and affection	Rs.1,00,000/-	---	Setaside
5.	Filial consortium	---	Rs.2,00,000/-	Granted
	Total Compensation	Rs.13,90,000/-	Rs.24,35,000/-	Enhanced by Rs.10,45,000/-

13. The learned counsel for the Insurance Company also submits that the claim made by the claimants only a sum of Rs.20,00,000/- however, the compensation fixed herein is more than Rs.20,00,000/- hence, the compensation would be restricted to Rs.20,00,000/-. The Hon'ble Apex Court in *Sidram vs. The Divisional Manager, United India Insurance* [Manu/SC/1493/2022 : 2023 (3) SCC 439]; *Nagappa vs. Gurudayal Singh*



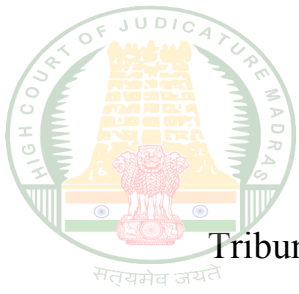
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[2023 (2) SCC 274] and *Laxman Maurya vs. Oriental Insurance*

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Company Limited [2012 ACJ 191] held that the Tribunal while fixing the quantum of compensation if the claim made is less than the compensation quantified, then the quantified compensation shall be awarded after collecting proper court fees.

14. In the result, the Civil Miscellaneous Appeal is allowed and the compensation awarded by the Tribunal at Rs.13,90,600/- is hereby enhanced to Rs.24,35,000/- (Rupees Twenty Four Lakhs and Thirty Five Thousand only) along with interest at the rate of 7.5% per annum from the date of filing of Claim Petition till the date of deposit, excluding the default period, if any. The Insurance Company is directed to deposit the amount now awarded 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.763 of 2014 on the file of the Motor Accidents Claims Tribunal, IV Additional District Judge, Ponneri. On such deposit, the claimants are permitted to withdraw the award amount now determined by this Court along with interest and costs, less the amount if any, already withdrawn, as per the apportionment fixed by the



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Tribunal. The share of the minor claimants are directed to be deposited in any one of the Nationalized Bank till the minor claimants attains the age of majority. On such deposit, the first claimant being the mother of the minor claimants are permitted withdraw the accrued interest once in three months for the welfare of the minor claimants, if the minor claimants already attained the age of majority, their share amount may be disbursed. The Tribunal shall disburse the amount now awarded by this Court by crediting in to the Savings Bank Account of the claimants. In other aspects the award of the Tribunal shall stand confirmed. There shall be no order as to costs in the present appeal.

29.11.2024

ssi

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation Case: Yes/No



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To:

1. The IV Additional District Judge,
Motor Accidents Claims Tribunal,
Ponneri.
2. The Section Officer,
V.R.Section,
High Court,
Chennai.



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.K. RAJASEKAR, J.

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