



C.M.A.No.2421 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.2421 of 2023

K.Susila

... Appellant/Petitioner

Vs.

1. M.Bhuvaneswari

2. Reliance General Insurance Co.Ltd.,
Reliance House, 6th Floor,
No.6, Haddows Road, Nungambakkam,
Chennai 600 034.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the Judgment and Decree dated 02.03.2023 made in MACT.O.P.No.6739 of 2014, on the file of the Special Court II, (Motor Accidents Claims Tribunal), Chennai.

For Appellant	: Mr.M.Mahendran for R.Kalai Arasan
For R1	: Dispensed with
For R2	: G.Vasudevan



C.M.A.No.2421 of 2023

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JUDGEMENT

This Civil Miscellaneous Appeal has been filed, challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal, Special Sub Court No.2, Small Causes Court, Chennai in MACT.O.P.No.6739 of 2014 dated 02.03.2023.

2. On 25.02.2014 at about 15.00 hours, when the deceased was travelling as a passenger in Maxi Cab, bearing Reg.No.TN-09-BS-3624, which was driven in a rash and negligent manner, and hit against the road side tree. Due to said accident, the deceased sustained grievous injuries and died on the spot. Thereafter, the appellant have filed a claim petition before the Tribunal, claiming a compensation of Rs.30,00,000/-.

3. The learned counsel for the appellant submitted that, at the time of accident, the deceased was working as a Painting Contractor and was earning Rs.20,000/- per month. However, the Tribunal has fixed the notional monthly income of the deceased at Rs.9,000/-, which is on the lower side and the same is required to be re-considered by this Court. Accordingly, he prays for appropriate enhancement in favour of the appellant.



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4. Per contra, the learned counsel appearing for the second respondent/Insurance Company submitted that, the notional monthly income fixed by the Tribunal was fair and reasonable. Further, he admitted that any fair amount with respect to notional income can be re-determined by this Court.

5. Heard the learned counsel for the appellant and the learned counsel on behalf of the second respondent and perused the materials available on record.

6. The fact and manner of the accident is not disputed by the parties. Therefore, this Court is not dealing with the said aspect. The only grievance of the appellant is with regard to the quantum of compensation awarded by the Tribunal. It is claimed by the appellant that though the deceased was aged about 32 years, had earned a sum of Rs.20,000/- as his monthly income, but without considering the same, the Tribunal had erroneously fixed the notional income at Rs.9,000/- per month. Therefore, this Court is of the view that the notional income of the deceased fixed by the Tribunal is very meagre and it is required to be modified. Applying the ratio laid down by the Apex Court in various cases, this Court feels it appropriate to re-determine the notional income of the deceased at Rs.12,000/- per month and adding future prospects at 40%, the



C.M.A.No.2421 of 2023

total income per month is quantified at Rs.16,800/- per month. Since the deceased was a bachelor at the time of the accident, 50% has to be deducted towards his personal and living expenses of the deceased, thereby, the loss of income to the family is arrived at Rs.8,400/- per month and the deceased was aged about 32 years at the time of accident as evidenced from the records, adopting the multiplier of 16 as fixed by the Apex Court, the loss of income to the family is arrived at Rs.8,400/-x12x16 = Rs.16,12,800/-, which is worked out as follows:-

<i>Loss of Income</i>	<i>Amount in Rs.</i>
Notional income (Per month)	12,000/-
Add: Future Prospects (Rs.12,000 x 40%) (Per month)	4,800/-
	16,800/-
Less: Personal expenses (50%) (Rs.16,800/- x 1/2) (Per month)	8,400/-
	8,400/-
Notional income (per annum) (Rs.8,400/- x 12)	1,00,800/-
Multiplier	16
Total	16,12,800/-

7. Consequently, the sum of **Rs.12,09,600/-** awarded by the Tribunal under the head of 'Loss of Dependency' is hereby modified and enhanced to **Rs.16,12,800**. Insofar as the compensation awarded by the Tribunal under other



C.M.A.No.2421 of 2023

heads are concerned, this Court finds the same to be just and proper and is hereby confirmed.

8. Accordingly, the compensation awarded by the Tribunal is modified as under :-

<i>Heads</i>	<i>Awarded by the Tribunal (Amount in Rs.)</i>	<i>Awarded by this Court (Amount in Rs.)</i>
Total loss of dependency	12,09,600/-	16,12,800/- (enhanced)
Loss of consortium	40,000/-	40,000/-
Funeral expenses	15,000/-	15,000/-
Loss of estate	15,000/-	15,000/-
Total	12,79,600/-	16,82,800/-

9. The appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from Rs.12,79,600/- to Rs.16,82,800/-. The second respondent/Insurance Company is directed to deposit the said amount to the credit of M.C.O.P.No.6739 of 2014 along with interest from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. Upon such deposit being made, the Tribunal is directed to transfer the entire amount



C.M.A.No.2421 of 2023

to the bank account of the claimant, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details obtained from the claimant or application for withdrawal from the claimant, whichever is later. The appellant/claimant is directed to pay the necessary Court fee for the enhanced compensation amount, if required. The Tribunal below shall not disburse the enhanced amount till such time the certified copy showing proof of payment of Court fee has been produced by the claimant. No costs.

29.01.2024

Index : Yes / No
NCC : Yes / No
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To

1. The Motor Accident Claims Tribunal,
Special Sub Court No.2, Small Causes Court,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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C.M.A.No.2421 of 2023

Krishnan Ramasamy,J.,

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C.M.A.No.2421 of 2023

29.01.2024