



C.M.A.No.2444 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

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- 1.Thiyagu @ Thiagarajan (Since died)
- 2.Malini
- 3.T.Vasu
- 4.T.Sabari Priya (minor)
Rep by her mother/2nd appellant
- 5.Chandra

...Appellant

Vs

- 1.M/s.Empee Distillors Limited (Exparte),
Empee Towers, No.59, Harris Road,
Pudupet, Chennai 600 002.
- 2.United India Insurance Co. Ltd.,
Silinghi Building,
No.134, Greams Road,
Chennai 600 006.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal and enhance the compensation in MCOP.No.290 of 2014 dated 18.04.2023 on the file of the Motor Accidents



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Claims Tribunal in the Special Sub-Court No.I, Small Causes Court, Chennai.

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For Appellants : Mr.R.Mohan Babu

For Respondent : Mr.S.Arunkumar for R2
Notice dispensed with for R1

JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgment and decree dated 18.04.2023 in MCOP.No.290 of 2014.

2. The learned counsel for the claimant would submit that on 23.05.2013, when the deceased was standing in a bus stop at Egmore Government Maternity Hospital, a car bearing Registration No.TN-01-X-5959 came in a rash and negligent manner and dashed against one Police Car Boliro and hit the deceased, due to which he died on the spot. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Dependency	6,30,000



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<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
2	Loss of Consortium	40,000
3	Loss of Estate	15,000
4	Funeral Expenses	15,000
	Total	7,00,000

3. He would also submit that at the time of accident, the deceased was aged about 12 years old. However, the Tribunal had fixed only a sum of Rs.3,500/- as notional income of the deceased child, which is on the lower side. Hence, he requests this Court to enhance the same and to fix a sum of Rs.6,000/- as notional income of the deceased child.

4. In reply, the learned counsel for the respondent would fairly submit that a sum of Rs.4,000/- may be fixed as notional income of the deceased child.

5. Heard the learned counsel for the appellant and the 2nd respondent and also perused the documents available on records.

6. In the present case, the accident was occurred in the year 2013 and at



the time of accident, the deceased was aged about 12 years. Hence, considering the year of accident and age of the deceased, this Court is inclined to fix a sum of Rs.5,000/- as notional income of the deceased instead of Rs.3,000/- as fixed by the Tribunal. Hence, by applying '15' as multiplier, the loss of income would be calculated as follows:

$$\text{Rs.5,000/- (notional income)} * 12 \text{ (months)} * 15 \text{ (multiplier)} = \text{Rs.9,00,000/-}$$

7. Further, it appears that no amount was awarded towards Transportation, hence, this Court is inclined to award a sum of Rs.10,000/- for the same. With regard to all the other heads, since the compensation awarded by the Tribunal appears to be just and fair, the same stands confirmed.

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

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Dependency	6,30,000	9,00,000
2	Loss of Consortium	40,000	40,000
3	Loss of Estate	15,000	15,000
4	Funeral Expenses	15,000	15,000



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<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
5	Transportation	Nil	10,000
	Total	7,00,000	9,80,000

9. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.9,80,000/-. Accordingly, the award amount stands increased from a sum of Rs.7,00,000/- to Rs.9,80,000/-. In all other aspects, the award of the Tribunal stands confirmed. It is also made clear that the enhanced compensation will be awarded only to the mother of the deceased/2nd appellant.

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.9,80,000/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.290 of 2014 on the file of the Motor Accidents Claims Tribunal cum the Special Sub-Judge No.I, Small Causes Court, Chennai. Upon such deposit, the share of the minor 4th appellant is directed to be deposited in any one of the Nationalised Bank till she attains majority and the 2nd appellant being the mother of the minor is permitted to withdraw the accrued interest once in three months



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for the welfare of the minor. Further, the Tribunal is directed to transfer the shares of the other claimants to their respective bank accounts, by way of RTGS, within a period of three weeks from the date of deposit and receipt of the Bank details obtained from the claimants. No costs.

15.03.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa

To

The Special Sub-Judge No.I,
Small Causes Court,
Chennai.



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KRISHNAN RAMASAMY,J.

nsa

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