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C.M.A.No.676 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

C O R A M

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

C.M.A.No.676 of 2024

1.Sanguvalli

Elumalai (died)

2.Minor Kanjana

3.Minor Sathiyaveni

4.Minor Sivasakthi

[Minors appellants 2 to 4 rep by their mother/1st appellant]

...Appellant

Vs

1.Ashokan

2.The Branch Manager,

United India Assurance Company Limited,

TP Claims Hub, No.81, Katpadi Road,

T.K.M.Complex, 2nd Floor,

Vellore 632 004.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award against the judgement and decree dated 30.08.2022 made in MACTOP.No.415 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Thiruvannamalai.



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C.M.A.No.676 of 2024

For Appellant : Ms.A.Subadra

For Respondent : Ms.R.Sree Vidhya for R2

JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgment and decree dated 30.08.2022 made in MACTOP.No.415 of 2018.

2. The learned counsel for the claimant would submit that on 11.03.2018, when one Dhasarathan was riding in his two-wheeler bearing Registration No.TN-09-BE-1402 along with 2 pillion riders from Kallakurichi to Tiruvannamalai, a Van bearing Registration No.TN-73-B-9093 came in a rash and negligent manner and dashed against the two-wheeler, due to which the said Dhasarathan was 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 Income	13,60,800
2	Loss of Consortium	2,20,000
3	Loss of Estate	16,500
4	Funeral Expenses	16,500
	Total	16,13,800



C.M.A.No.676 of 2024

3. He would further submit that at the time of accident, the deceased was aged about 22 years and working as a Mason. However, without considering the same, the Tribunal had fixed the notional income of the deceased as a sum of Rs.9,000/-, which is too low and the same requires re-consideration. With regard to the compensation awarded towards all the other heads, he would submit that the same are just and fair and hence, he requests this Court to confirm the same.

4. In reply, the learned counsel appearing for the respondent would submit that after considering all the aspects, the Tribunal had rightly awarded the compensation and the same is just and reasonable. Hence, he requests this Court to confirm the same. Further, he would submit that any reasonable amount may be fixed as notional income of the deceased, if this Court is inclined to enhance the compensation.

5. Heard the learned counsel for the appellant and the respondents and also perused the documents available on records.

6. In the present case, there is no dispute with regard to the occurrence of



accident and fixation of negligence. The only issue that has to be decided is with regard to the fixation of notional income of the deceased. The accident was occurred in the year 2018. At the time of accident, the deceased was aged about 22 years and was working as a Mason.

7. In the judgment of *Syed Sadiq and others vs. Divisional Manager, United India* reported in *MANU/SC/0033/2014*, for the accident occurred in the year 2008, the Hon'ble Apex Court had fixed a sum of Rs.6,500 as notional income of the deceased vegetable vendor. When such being the case, in the present case, considering the year of accident and by applying cost inflation, this Court is inclined to fix a sum of Rs.13,000/- as the notional income of the deceased Mason. Since the deceased was a bachelor, 50% has to be deducted towards the personal expenses of the deceased. Hence, by applying 18 as multiplier and adding 40% towards future prospects, the loss of income would be calculated as follows:

$$\begin{aligned} & \text{Rs.13,000/- (notional income) + Rs.5,200/- (40\% future prospects)} \\ & * 12 \text{ (months)} * 18 \text{ (multiplier)} * (1/2) \text{ (deduction towards personal expenses)} \\ & = \text{Rs.19,65,600/-} \end{aligned}$$

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



C.M.A.No.676 of 2024

follows:

S.No.	Heads	Compensation awarded by Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
1	Loss of Income	13,60,800	19,65,600
2	Loss of Consortium	2,20,000	2,20,000
3	Loss of Estate	16,500	16,500
4	Funeral Expenses	16,500	16,500
	Total	16,13,800	22,18,600

9. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.22,18,600/-. Accordingly, the award amount stands increased from a sum of Rs.16,13,800/- to Rs.22,18,600/-. In all other aspects, the award of the Tribunal stands confirmed. It is also made clear that since the father of the deceased had passed away, the compensation will be awarded to the claimants in the following proportions:

- Siblings of the deceased/appellants 2 to 4— Rs.3,00,000/- each
- Mother of the deceased/1st appellant – Rs.13,18,600/-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.22,18,600/- along with interest and costs, less the amount already deposited and also less the interest



C.M.A.No.676 of 2024

for the waiver period, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MACTOP.No.415 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub Court, Thiruvannamalai. Upon such deposit, the shares of the minor appellants 2 to 4 are directed to be deposited, as per the proportion determined by this Court, in any one of the Nationalised Bank till they attain majority and the 1st appellant being the mother of the minors is permitted to withdraw the accrued interest once in three months for the welfare of the minors. Further, the Tribunal is directed to transfer the share of the 1st appellant to her bank account, by way of RTGS, within a period of three weeks from the date of receipt of the Bank details obtained from the 1st appellant. No costs.

26.03.2024

Index: Yes/No
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Speaking order/Non-speaking order
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C.M.A.No.676 of 2024

KRISHNAN RAMASAMY,J.

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C.M.A.No.676 of 2024

26.03.2024