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C.M.A.No.460 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A.No.460 of 2024

1. Sofiya
2. Magimai Ashwini
3. Arockiya Akash .. Appellants

Vs.

1. Anthonisamy
2. The Divisional Manager,
The New India Assurance Company Limited,
Hub, 3rd Party Claims, CSI Building,
2nd Floor, No.1, Officer's Line,
Near Voorhees College,
Vellore. .. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 19.04.2022 made in M.A.C.T.O.P.No.548 of 2018 by the learned Motor Accident Claims Tribunal/Special Sub Judge, Thiruvannamalai.

For Appellants : Ms.A.Subadra
For Respondents : Mr.S.Dhakshinamoorthy (R2)



J U D G M E N T

This Civil Miscellaneous Appeal has been filed for enhancement of compensation granted by the award dated 19.04.2022 made in M.A.C.T.O.P.No.548 of 2018 on the file of the Motor Accident Claims Tribunal/Special Sub Court, Tiruvannamalai.

2. The Appellants are the Claimants in M.C.O.P.No.548 of 2018 on the file of *Motor Accidents Claims Tribunal/Special Sub Court, Thiruvannamalai*. They filed the above said claim petition, claiming a sum of **Rs.50,00,000/-** as compensation for the death of one Christhuraj, who died in an accident that took place on 24.05.2018.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident occurred due to rash and negligent driving by the driver of the Bajaj Auto bearing Registration No.TN 25 BA 8713, belonging to the 1st respondent and directed the 2nd Respondent-Insurance Company to pay a sum of **Rs.14,25,000/-** as compensation to the Appellants

4.Not being satisfied with the amount awarded by the Tribunal, the



Appellants have come out with the present appeal seeking enhancement of compensation.

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5.The learned counsel for the appellants contended that the accident took place in the year 2018 and at the time of accident, the deceased Ranganathamoorthy was a cooking master and also doing catering service was earning a sum of Rs.30,000/- per month, but the Tribunal has fixed only a sum of Rs.9,000/- as monthly income of the deceased, while determining the compensation towards Loss of Income, which is very low and therefore requested this Court to fix reasonable amount as monthly income of the deceased. He further submitted that the compensation awarded by the Tribunal towards other heads is also very low and the same needs to be enhanced.

6.Per contra, learned counsel appearing for the 2nd respondent-Insurance Company contended that since the Appellants have not filed any documentary evidence in order to prove that the deceased was and earning a sum of Rs.30,000/- per month, the Tribunal, by taking note of the judgment of Hon'ble Apex Court in the case of *Syed Sadiq Vs. United India Insurance*



Company reported in **(2014 (1) TNMAC 459)**, has fixed the notional monthly income of the deceased at Rs.9,000/- and the same is reasonable. He further submitted that the total compensation awarded by the Tribunal under various heads is not meager. The appellants have not made out any case for enhancement of compensation and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the Appellants as well as the learned counsel appearing for the 2nd Respondent-Insurance Company and perused the entire materials on record.

8. A perusal of the Award passed by the Tribunal would go to show that since no documents were produced by the Appellants to prove that the deceased was running catering service and working as a cooking master without any documents, taking note of the Judgment of Hon'ble Apex Court in the case of **Syed Sadiq Vs. United India Insurance Company** reported in **2014 (1) TNMAC 459**, fixed the monthly income of the deceased at Rs.9,000/-, per month, which in the opinion of this Court, is very low. The Tribunal can very well directed the Appellants to produce the bank statement of the deceased, which the appellants can also able to produce and by which



the Tribunal would have fixed the reasonable amount as monthly income of the deceased.

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9. In the case on hand, the accident occurred in the year 2018. The cost of living has been increased enormously and salary of even unskilled workers being increased substantially and therefore this Court is of the view that a sum of Rs.15,000/- can be fixed as monthly income of the deceased and accordingly a sum of Rs.15,000/- is fixed as monthly income of the deceased. and by adding 25% towards future prospects, a sum of Rs.18,750/- (15000+3750) is arrived and by adopting multiplier '14' as per Judgment of the Hon'ble Supreme Court in the case of **SARLA VERMA AND OTHERS VS. DELHI TRANSPORT CORPORATION AND ANOTHER** reported in (2009) 4 MLJ 997, a sum of Rs.31,50,000/- (18,750x12x14) is arrived and by deducting 1/3rd towards personal expenses, a sum of **Rs.21,00,000/-** (31,50,000-10,50,000) is awarded towards **Loss of Income** and hence the compensation towards Loss of Income is enhanced from Rs.12,60,000/- to Rs.21,00,000/-. The amounts awarded by the Tribunal under other heads are just and reasonable and hence, the same are hereby confirmed. Thus, the compensation awarded by the Tribunal is modified as follows:



S. No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income	12,60,000/-	21,00,000/-	Enhanced
2.	Loss of Consortium	1,32,000/-	1,32,000/-	Confirmed
3.	Loss of Estate	16,500/-	16,500/-	Confirmed
4.	Funeral Expenses	16,500/-	16,000/-	Confirmed
	Total	Rs.14,25,000/-	Rs.22,65,000/-	Enhanced by Rs.8,40,000 /-

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the compensation awarded by the Tribunal at Rs.14,25,000/- is hereby enhanced to Rs.22,65,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. Out of the aforesaid compensation, the 1st Claimant/wife is entitled to a sum of Rs.10,65,000/- and the Appellants 2 and 3 are entitled for a sum of Rs.6,00,000/- each. The 2nd Respondent-Insurance Company is directed to deposit the award amount now determined 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.548 of 2018** on the file of the Motor Accidents Claims Tribunal/Special Sub Court,



C.M.A.No.460 of 20--

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Tiruvannamalai. On such deposit being made, the Tribunal is directed to transfer the Award amount, as apportioned above, directly to the Bank account of the Appellants/Claimants through RTGS, within a period of **three weeks**. The Appellants/Claimants shall pay necessary Court fee, if any, on the enhanced compensation. However, it is made clear that if there is any delay in filing the C.M.A. and in case of any earlier order by this Court, depriving interest for the period of delay in question, the interest portion for that period should be excluded for the purpose of granting interest. No costs.

20.03.2024

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Index : Yes / No

Internet : Yes / No



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C.M.A.No.460 of 20--

KRISHNAN RAMASAMY, J.

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To

1. The Divisional Manager,
The New India Assurance Company Limited,
Hub, 3rd Party Claims, CSI Building,
2nd Floor, No.1, Officer's Line,
Near Voorhees College, Vellore.
2. The Motor Accident Claims Tribunal,
Special Sub Court, Tiruvannamalai.
3. The Section Officer,
VR Section,
High Court,
Madras.

C.M.A.No.460 of 2024



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C.M.A.No.460 of 20--

20.03.2024

C.M.A.No.1838 of 2022

20.03.2024