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C.M.A.No.347 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.347 of 2024

1.Kamarunnisha
2.Shah Nawazkhan
3.Minor Mohammed Piroz

...Appellant

Vs

1.R.Sanna Kesavan
2.The Manager,
New India Assurance Co. Ltd,
Branch Office, 1st Floor,
Dhanvanthri Building,
East Car Street, Chidambaram 608 001.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation awarded in MACTOP.No.58 of 2021 dated 27.03.2023 on the file of the Motor Accident Claims Tribunal (II Additional District and Sessions Court), Chidambaram.

For Appellant : Mr.A.Muthukumar

For Respondent : Mr.S.P.Chockalingam for R2
No appearance for R1



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JUDGMENT

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This civil miscellaneous appeal has been filed challenging the judgment and decree dated 27.03.2023 in MACTOP.No.58 of 2021.

2. The learned counsel for the claimant would submit that on 29.08.2020, when the deceased was riding a Motorcycle bearing Registration No.PY-01-CP-1947 at Ponnanthittu-Mudasalodai Main Road, a four-wheeler bearing Registration No.TN-31-BE-1306 came in a rash and negligent manner and dashed against 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 Income	13,60,800
2	Loss of Consortium	80,000
3	Loss of Estate	15,000
4	Funeral Expenses	15,000
	Total	14,70,800

3. Further, he would submit that the only issue involved in this appeal is with regard to the fixation of notional income of the deceased. At the time of



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accident, the deceased was aged about 20 years and was studying III year B.Sc and also he was earning a sum of Rs.600/- per day from his part-time job. However, without considering all these aspects, the Tribunal had awarded only a sum of Rs.9,000/- as notional income of the deceased, which is too low. Hence, he requests this Court to fix a sum of Rs.18,000/- as notional income of the deceased.

4. In reply, the learned counsel for the respondent would submit that at the time of accident, the deceased was studying III year B.Sc. Since no income proof was produced by the claimants, considering the year of accident and age of the deceased, the Tribunal had fixed a sum of Rs.9,000/- as notional income of the deceased, which is just and fair. Further, he would submit that if this Court is inclined to enhance the notional income of the deceased, any reasonable amount, which is not more than a sum of Rs.12,000/-, may be fixed by this Court as notional income of the deceased.

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



6. In the present case, the accident was occurred in the year 2020. At the time of accident, the deceased, who was aged about 22 years, was studying III year B.Sc. Further, as per the claimants, the deceased was earning a sum of Rs.600/- per day from his part-time job, however, no income proof was produced by the claimants.

7. In the case 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 for the deceased Vegetable Vendor. In such view of the matter, the notional income fixed by the Tribunal appears to be too low. Therefore, by applying cost inflation, for the accident occurred in the year 2020, it would be appropriate to fix a sum of Rs.14,000/- as notional income of the deceased. Hence, by adding 40% towards future prospects, by applying 18 as multiplier and by deducting 50% towards personal expenses of the deceased, the loss of income would be calculated as follows:

$$\begin{aligned} & \text{Rs.14,000/- (notional income) + Rs.5,600/- (40\% future prospects)} \\ & * 12 \text{ (months)} * 18 \text{ (multiplier)} * (1/2) \text{ (deduction towards personal expenses)} \\ & = \text{Rs.21,16,800/-} \end{aligned}$$



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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 Income	13,60,800	21,16,800
2	Loss of Consortium	80,000	80,000
3	Loss of Estate	15,000	15,000
4	Funeral Expenses	15,000	15,000
	Total	14,70,800	22,26,800

9. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.22,26,800/-. Accordingly, the award amount stands increased from a sum of Rs.14,70,800/- to Rs.22,26,800/-. In all other aspects, the award of the Tribunal stands confirmed.

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.22,26,800/- along with interest and costs, less the amount already deposited and also less the interest 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.58 of 2021 on



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the file of the Motor Accident Claims Tribunal (II Additional District and Sessions Court), Chidambaram. Upon such deposit, the share of the minor/3rd appellants is directed to be deposited in any one of the Nationalised Bank till they attain majority and the 1st appellant being the mother of the minor is permitted to withdraw the accrued interest once in three months 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.

26.03.2024

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

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KRISHNAN RAMASAMY,J.

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