



C.M.A.No.2057 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 05.01.2024	Pronounced on 19.01.2024
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2057 of 2021

1.Lakshmi

2.Sekar

3.Anandhi

All are residing at
No.36, A Block, Bharathi Nagar
Korukkupet
Chennai 600 021

... Appellants

Vs.

1.M/s.Fathuma Roadways
Fathuma Bus Compound
No.15-1-34/3, Cumbum Road
Theni District 625 531

2.The New India Assurance Co. Ltd.,
Bombay Mutual Building
6th Floor, No.232, N.S.C.Bose Road
Chennai 600 001

... Respondents



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Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 to enhance the amount awarded in MCOP.No.4561 of 2016 dated 27.11.2017, on the file of the Motor Accident Claims Tribunal (V Small Causes Court), Chennai.

For Appellants : Mr.K.Varadhakamaraj

For Respondents : Mr.R.Sivakumar (for R2)

J U D G M E N T

The Appeal has been filed to enhance the amount awarded in MCOP.No.4561 of 2016 dated 27.11.2017, on the file of the Motor Accident Claims Tribunal (V Small Causes Court), Chennai.

2.The claim Petitioners are the Appellants herein and they filed this Appeal, seeking enhancement of compensation awarded in MCOP.No.4561 of 2016 dated 27.11.2017, on the file of the Motor Accident Claims Tribunal (V Small Causes Court), Chennai. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.The legal representatives of the deceased Dharmadurai filed



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MCOP.No.4561 of 2016, seeking compensation and filed this Appeal on the point of quantum.

4.The factum of the accident, manner of the accident, rash and negligent driving on the part of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the trial Court that the accident taken place due to the rash and negligent driving of the driver of the 1st Respondent's vehicle, insured with the 2nd Respondent are hereby confirmed.

5.During the trial, on the side of the claim Petitioners, PW1 to PW3 were examined & Ex.P.1 to Ex.P.17 were marked and on the side of the Respondents, none was examined and no document was marked.

6.Heard the learned counsel appearing on behalf of the claim Petitioners and the learned counsel appearing on behalf of the Insurance Company.

7.The claim Petitioners have filed the above claim Petition, claiming



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compensation for the death of one Dharmadurai in the road transport accident occurred on 22.05.2016. At the time of the accident, the deceased was said to have been working as Auto-rickshaw Mechanic and earned a sum of Rs.25,000/- per month. As per Ex.P.14, the date of birth of the deceased is 28.03.1991, the date of accident is 22.05.2016 and therefore, at the time of the accident, the Petitioner was 25 years old. The Tribunal has fixed the notional income at Rs.6,500/- per month. Since the deceased was working as auto rickshaw mechanic, the notional income of the deceased is enhanced from Rs.6,500/- to Rs.12,000/- per month. The Tribunal has deducted 1/3rd towards personal expenses of the deceased and added 40% towards future prospects and adopted right multiplier of '18' as per the judgment of the Hon'ble Supreme Court in the case of **Sarla Verma & Others .Vs. Delhi Transport Corporation & another**, reported in **2009 (2) TNMAC 1 (SC)**. The same are hereby confirmed. Hence, the pecuniary loss sustained by the claim Petitioners are re-assessed as follows:

$$[\text{Rs.12,000/-} + (40\% \text{ of } 12,000\text{-})] \times \frac{2}{3} \times 12 \times 18 = \text{Rs.24,19,200/-}$$

8.The first Petitioner as a wife of the deceased is entitled for Rs.40,000/-



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towards consortium and the claim Petitioners 2 & 3 as parents are entitled for Rs.40,000/- each towards loss of love and affection. The Tribunal has awarded a sum of Rs.15,000/- towards loss of estate, Rs.15,000/- towards funeral expenses, which are just and proper and the same are hereby confirmed. Apart from this, a sum of Rs.15,000/- is awarded towards transportation charges.

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1	Pecuniary loss	2419200
2	Loss of consortium	40000
3	Loss Love and Affection	80000
4	Funeral expenses	15000
5	Loss of Estate	15000
6	Transportation	15000
	Total Compensation	2584200

In total, the claim Petitioners are entitled to a sum of Rs.25,84,200/- (Rupees twenty five lakh eighty four thousand and two hundred only).

9.In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.13,80,400/- to Rs.25,84,200/- to the extent indicated above. No Costs.



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(ii) the Insurance Company is directed to deposit the enhanced award amount, with 7.5% interest per annum and costs before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order.

(iii) on such deposit being made, all the claim Petitioners/Appellants are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The claim Petitioners/Appellants are permitted to withdraw their entire share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal.

(iv) the claim Petitioners are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

19.01.2024

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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WEB COPY To

The V Judge,
Motor Accident Claims Tribunal
V Small Causes Court
Chennai.



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RMT.TEEKAA RAMAN.J,

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Pre-delivery Judgment made in

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Dated: 19.01.2024