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CMA.No.3331 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2024

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CMA.No.3331 of 2024

1. S.Murugan

2. Lakshmi

3. Saratha

4. Santhi

...Appellants

Vs.

1. V.Rangasamy

2. The Manager,
United India Insurance Company Limited,
Silingi Building, 4th Floor,
No.134, Greaves Road,
Chennai – 600 006.

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation awarded in the Judgment and Decree, dated 13.12.2023, passed in M.C.O.P.No.7483 of 2018, on the file of the Motor Accident Claims Tribunal (In the II Court of Small Causes, Chennai).

For Appellants : Mr.M/s.K.Balaji

For Respondents : Mr.K.Swaminathan

JUDGMENT

Challenging the judgment and decree dated 13.12.2023 passed in M.C.O.P.No.7483 of 2018 on the file of the Motor Accident Claims Tribunal



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(In the II Court of Small Causes, Chennai), the claimants have filed the above appeal seeking enhancement of compensation.

2. Since the first respondent remained ex-parte before the Tribunal, notice to the first respondent is dispensed with.

3. It is the case of the claimants that, On 20.06.2018, at about 5.30 hours, when the deceased was crossing the road as a pedestrian, at that time, a car bearing Regn.No.TN 57 AQ 5996, driven by its driver belonging to the first respondent in a rash and negligent manner had hit the deceased, due to which the deceased sustained grievous injuries and was succumbed to death. Thereby, the appellants, who are the dependents of the deceased filed a claim petition in M.C.O.P.No.7483 of 2018 claiming a compensation of Rs.20,00,000/-.

4. Before the Tribunal, the claimants examined P.W1 and P.W.2 and marked Exs.P.1 to P.20. On behalf of the respondents, they examined R.W.1 and R.W.2 and marked Exs.R1 to R6. After trial, the Tribunal, on appreciation of oral and documentary evidence came to a conclusion that the accident had taken place solely due to the rash and negligent driving on the part of the driver of the 1st respondent car and awarded Rs.5,69,000/- towards compensation for the death of the deceased. Being not satisfied with the quantum of compensation



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awarded by the Tribunal, the appellants/claimants have come up with this appeal seeking enhancement of compensation.

5. Learned counsel for the appellants submitted that the above said accident happened solely due to the rash and negligent driving on the part of the driver of the 1st respondent car and the accident is of the year 2018 and at the time of accident, the deceased was aged about 68 years and was working as a Housemaid and a fruit seller earning not less than a sum of Rs.15,000/- per month, however, the tribunal had taken the notional income of the deceased as Rs.8,000/-, which is very meagre and the same is contrary to the ratio laid down by the Hon'ble Apex court in catena of decisions and thereby, the same has to be interfered with. Further, the compensation awarded under other heads are also on the lower side and the same needs to be enhanced. Accordingly, he prayed for appropriate orders.

6. Per contra, the learned counsel appearing on behalf of the 2nd respondent-Insurance Company contended that, by considering all the relevant documents, the Tribunal has rightly awarded the compensation, which does not require any enhancement. Accordingly, he prays for dismissal of the appeal.



7. This Court has carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties and the parties have not raised any issue on the aspect of negligence and therefore, this Court is not venturing into the same.

9. Insofar as the quantum of compensation fixed by the tribunal is concerned, the accident is of the year 2018 and at the time of accident, the deceased was aged about 68 years and she was working as a Housemaid and a fruit seller earning, however, the Tribunal had fixed the notional monthly income at Rs.8,000/-, which is on the lower side. Applying the ratio laid down by the Hon'ble Supreme Court in the case of *Syed Sadiq Vs. United India Insurance Company* reported in **2014 (1) TANMAC 459**, and also considering the age of the deceased as also the claimants, fixing a notional income of Rs.15,000/- would be just and proper and since the deceased was aged about 68 years, she is not entitled for future prospects. Since all the claimants are major, deducting 1/4th towards personal expenses cannot be sustained. Hence, this Court deducts 1/3rd towards the personal expenses of the deceased, the loss of income to the family is arrived at Rs.10,000/- per month (Rs.15,000 -



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Rs.5,000)and the deceased being aged about 68 years, as evidenced from the records, adopting the multiplier of 5 as fixed by the Apex Court in the case of *Sarla Verma and Ors. v. DTC & Ors.* reported in (2009) 6 SCC 121, the loss of income to the family is arrived at Rs.10,000/- * 12 * 5 = Rs.6,00,000/-.

10. Insofar as the compensation awarded under the other heads are concerned, this Court is of the view that the compensation awarded under other heads are just and reasonable and the same does not requires interference of this Court.

11. In the above circumstances, the compensation awarded by the Tribunal is modified as under :-

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of dependency	3,60,000/-	6,00,000/- (enhanced)
Loss of Consortium	1,76,000/-	1,76,000/- (enhanced)
Loss of estate	16,500/-	16,500/-
Funeral expenses	16,500/-	16,500/-
Total	5,69,000/-	8,09,000/-

12. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Tribunal in MCOP.No.7483 of 2018 is



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modified by enhancing the compensation amount from Rs5,69,000/- to **Rs.8,09,000/-**. The 2nd respondent Insurance is directed to deposit the said amount to the credit of MCOP.No.7483 of 2018 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellants/claimants through RTGS within a period of two weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. It is underscored that the appellants are not entitled to any interest for the default period, if any. The compensation awarded by this Court shall be apportioned among the appellants equally, with proportionate interest and costs. No costs.

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NCC : Yes/No

Speaking Order : Yes/No

To:



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1. The Motor Accident Claims Tribunal (In the II Court of Small Causes, Chennai).

2. The Section Officer,

V.R. Section, High Court, Madras.

M.DHANDAPANI, J.



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