



C.M.A.Nos.654 & 726 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 10.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.Nos.654 & 726 of 2024

C.M.A.No.654 of 2024:

1.Sarala Uma

2.Kannagi

3.D.Vinayagamoorthi

.. Appellants

Vs.

1.M.Murali

(R1 remained exparte before the Tribunal.
Hence, his presence dispensed with)

2.United India Insurance Co. Ltd.,
Silingi Building, 4th Floor,
No.134, Greams Road,
Chennai – 600 006.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the award against the judgment and decree dated 13.12.2022 made in M.A.C.T.O.P.No.3994 of 2017 on the file of the Motor Accident Claims Tribunal, (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai.

C.M.A.No.726 of 2024:



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1.Mangalakshmi

2.N.Nalini Kumar

3.N.Nalinikumari

.. Appellants

Vs.

1.M.Murali

(R1 remained exparte before the Tribunal.
Hence, his presence dispensed with)

2.United India Insurance Co. Ltd.,
Silingi Building, 4th Floor,
No.134, Greams Road,
Chennai – 600 006.

3.K.Narayanan

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the award against the judgment and decree dated 13.12.2022 made in M.A.C.T.O.P.No.3995 of 2017 on the file of the Motor Accident Claims Tribunal, (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai.

(In both cases):

For Appellants : Ms.A.Subadra

For R2 : Mrs.R.Sree Vidhya

COMMON JUDGMENT



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These appeals arise out of a common award passed in M.A.C.T.O.P.Nos.3994 & 3995 of 2017 by the Motor Accident Claims Tribunal, (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai, by award dated 13.12.2022 and hence, common judgment is passed in these appeals.

2.The claimants in both the petitions have approached this Court seeking for enhancement of compensation.

3.The case of the claimants is that on 14.05.2017, at about 23.30 hours, the deceased Murugan was crossing as a pedestrian at Trichy – Chennai bypass road and the other deceased Dinesh Kumar was traveling as a pillion rider in the motorcycle. This motorcycle was driven in a rash and negligent manner by the rider of the offending vehicle and as a result, the vehicle hit the deceased Murugan and capsized. Both Murugan and Dinesh Kumar succumbed to the injuries. It is under these circumstances, claim petitions came to be filed by the legal representatives / dependants of the deceased Murugan and Dinesh Kumar.

4.The Tribunal on considering the facts and circumstances of the



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case and on appreciating the oral and documentary evidence, came to a conclusion that the two wheeler was driven in a rash and negligent manner and hence, the negligence was attributed as against the 1st respondent in the claim petitions.

5.After having rendered this finding, the Tribunal proceeded to fix the compensation under various heads. In so far as M.A.C.T.O.P.No.3994 of 2017 is concerned, the total compensation was fixed at Rs.16,17,600/- in the following manner:-

1.Total loss of dependency	:	Rs.15,87,600.00
2.Loss of Estate	:	Rs.15,000.00
3.Funeral Expenses	:	Rs.15,000.00

Total Compensation is fixed at	:	Rs.16,17,600.00

6.With respect to M.C.O.P.No.3995 of 2017, the total compensation was fixed at Rs.16,97,600/- in the following manner:-

1.Total loss of dependency	:	Rs.15,87,600.00
2.Loss of Consortium	:	Rs.80,000.00
3.Loss of Estate	:	Rs.15,000.00



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4.Funeral Expenses : Rs.15,000.00

Total Compensation is fixed at : Rs.16,97,600.00

7.The above compensation was directed to be paid by the Insurance Company with the interest at the rate of 7.5% per annum.

8.Claimants not being satisfied with the quantum of compensation fixed by the Tribunal, have filed these appeals seeking for enhancement of compensation.

9.Heard the learned counsel for the appellants and the learned counsel for the 2nd respondent – Insurance Company.

10.This Court have carefully considered the submissions made on either side and the materials available on record.

11.This Court has also carefully gone through the award passed by the Tribunal.



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12.The appeal in C.M.A.No.654 of 2024 pertains to the award passed in M.A.C.T.O.P.No.3994 of 2017. In the instant case, the claimants are the sisters and the brother of the deceased. The deceased was a lorry driver and was aged about 23 years at the time of his demise. The Tribunal had fixed the notional monthly income at Rs.10,500/- and had added 40% towards future prospects and thus, has arrived the total monthly income at Rs.14,700/-. Based on the same, the loss of dependency was calculated.

13.The learned counsel for the appellants submitted that the notional monthly income fixed by the Tribunal is on the lower side and it requires enhancement, considering the fact that the deceased was a lorry driver and the accident had taken place in the year 2017.

14.The sisters of the deceased are married and they are living separately in their matrimonial home. The brother is the elder brother of the deceased and he is not depending upon the deceased. Hence, the claimants in this case cannot be considered as dependants and at the best they can maintain the claim petition as a right of entitlement to get the



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case, the dependants are the mother, unmarried sister and brother. The deceased in this case was engaged in the avocation of Electrician and he was aged 25 years at the time of the accident. The Tribunal had fixed the notional monthly income at Rs.10,500/- and in the considered view of this Court, this is on the lower side. Hence, the notional monthly income is enhanced to Rs.12,500/-. With this, 40% can be added towards future prospects. The claimants in this case are the mother, sister and the brother. Considering the judgment of the Hon'ble Supreme Court reported in **2009 (2) TNMAC 1 SC Supreme Court, [Sarla Verma & others Vs. Delhi Transport Corporation & another]**, 50% of the amount must be deducted towards personal expenditure of the deceased. Thus, the total loss of dependency can be fixed at Rs.18,90,000/- (Rs.12,500/- + 40% X 12 X 1/2).

18.In so far as the other heads are concerned, the Tribunal has granted a sum of Rs.80,000/- under the head of loss of consortium. This head can be converted as loss of love and affection and a sum of Rs.40,000/- can be fixed for each of the claimant. Thus, the total compensation of Rs.1,20,000/- can be fixed under this head.



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19.In so far as the other heads are concerned, the compensation that was fixed by the Tribunal is reasonable and does not require any interference. In the light of the above discussion, the total compensation is fixed as follows:-

1.Loss of dependency	-	Rs.18,90,000.00
2.Loss of love and affection	-	Rs.1,20,000.00
3.Loss of estate	-	Rs.15,000.00
4.Funeral expenses	-	Rs.15,000.00

Total compensation	-	Rs.20,40,000.00

20.In the result,

(i)C.M.A.No.654 of 2024 is dismissed and the award passed by the Motor Accident Claims Tribunal, (Special Sub Court No.1, Motor Accidents Claims Petitions), Small Causes Court, Chennai, in M.A.C.T.O.P.No.3994 of 2017 dated 13.12.2022 is confirmed. The 2nd respondent-Insurance Company is directed to deposit the amount awarded by the Tribunal, less the amount already deposited, together with interest at 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this



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judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.

(ii)C.M.A.No.726 of 2024 is allowed in the above terms. The compensation awarded by the Tribunal at Rs.16,97,000/- is enhanced to Rs.20,40,000/-. The 2nd respondent – Insurance Company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% per annum from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.3,43,000/- is concerned, the appellants / claimants will not be entitled for interest for the period of delay of 223 days as was ordered by this Court in C.M.P.No.36 of 2024, dated 06.03.2024. Insofar as the enhanced compensation is concerned, the deficit Court fee, if not paid, shall be paid by the appellants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.

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Index : Yes / No



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Internet : Yes / No

Neutral Citation : Yes / No

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To

1.The Motor Accident Claims Tribunal,
(Special Sub Court No.1, Motor Accidents Claims Petitions),
Small Causes Court,
Chennai.

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.

N.ANAND VENKATESH, J.

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