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C.M.A.No.383 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM :

The Hon'ble Mr. Justice Krishnan Ramasamy

C.M.A.No.383 of 2024

1. H.Valli

2. Menaka

3. H.Sangeetha

... Appellants

Vs.

1. S.Selvi

2. United India Insurance Co. Ltd.,
AR Complex, 2nd Floor,
No.1090, Poonamallee High Road,
Chennai 600 084.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the award dated 12.07.2022 passed in M.C.O.P.No.1558 of 2013 by the Learned Motor Accident Claims Tribunal, Small Causes Court-III, Chennai.

For Appellants : Mr.R.Dineshkumar

For R2 : Mr.P.Sankara Narayanan



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JUDGEMENT

This Civil Miscellaneous Appeal has been filed by the appellants/claimants, challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal in M.C.O.P.No.1558 of 2013 dated 12.07.2022.

2. On 19.01.2013, at about 10.00 hours, the deceased who was travelling as a pillion rider in a motorcycle bearing Reg.No.TN 22 CE 4973, he was hit by a Tipper lorry bearing Reg.No.TN 22 C 5959, driven by its driver, which came from the same direction, in a rash and negligent manner. Due to the said accident, the deceased sustained grievous injuries all over his body. Hence, the claimants, being wife and daughters of the deceased, filed a claim petition seeking a compensation of Rs.15,00,000/-.

3. On consideration of oral and documentary evidence, the Tribunal has awarded a sum of Rs.5,34,500/- towards compensation to the appellants. Being not satisfied with the same, the appellants have filed the present appeal.



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4. The learned counsel for the appellants would submit that, at the time of accident, the deceased was aged about 61 years, working as a Plumber and retired from Southern Railways, earning a sum of Rs.600/- per day. However, without considering the same, the Tribunal had erroneously fixed the notional monthly income of the deceased at Rs.6,500/- per month, which is very meager, and the same may be re-determined by this Court. Further, he relied on the judgment of Hon'ble Apex Court, in the case of ***Syed Sadiq Vs. United India Insurance Company***, reported in ***2014 (1) TNMAC 459 (SC)***, wherein the Apex Court fixed the notional monthly income even for a vegetable vendor at Rs.6,500/-, who sustained injuries in the accident occurred in the year 2008, by applying the multiplier based on cost inflation index, in the absence of any proof for income, it would come more than a sum of Rs.13,000/-. Hence, the learned counsel for the appellants requested this Court to fix the notional income of the deceased at a sum of Rs.12,000/- per month, which is just and reasonable. Accordingly, he prays for appropriate enhancement in favour of the appellants.



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5. Per contra, the learned counsel appearing for the second respondent would submit that the compensation awarded by the Tribunal, which is just and fair. Further, he requested this Court to fix the notional income of the deceased at a sum of Rs.9,000/- per month, which may be just and reasonable.

6. Heard the learned counsel for the appellants and the learned counsel appearing on behalf of second respondent and perused the materials available on record.

7. In the present case, as noticed above, the deceased was a Plumber and retired from Southern Railways and aged about 61 years at the time of accident. The Tribunal had fixed the notional income of the deceased at Rs.6,500/- per month, for the accident occurred in the year of 2013. However, this Court feels that the notional income fixed by the Tribunal, which appears to be low. Hence, this Court, in the light of the law laid down by the Hon'ble Supreme Court in *Syed Sadiq's* case (cited supra) and taking into consideration of the nature of employment of the deceased, feels it appropriate to fix the notional monthly income of the deceased at a sum of Rs.9,500/- per month, which is just and reasonable.



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Thus, by fixing the notional income of the deceased at Rs.9,500/- per month; deducting $1/3^{\text{rd}}$ towards his personal expenses and by adopting right multiplier of '7' (since the deceased was aged 61 years), the compensation towards Loss of Dependency is calculated as under:-

<i>Loss of Income</i>	<i>Amount in Rs.</i>
Notional income (Per month)	9,500
Less: Personal expenses ($1/3^{\text{rd}}$) (Rs.9,500/- x $1/3$) (Per month)	3,167
	6,333
Notional income (per annum) (Rs.6,333/- x 12)	75,996
Multiplier	7
Total	5,31,972

8. Consequently, the sum of **Rs.3,64,000/-** awarded by the Tribunal under the head of 'Loss of Dependency' is hereby modified to **Rs.5,31,972/-**.

9. Insofar as the compensation awarded by the Tribunal under other heads are concerned, this Court finds that the same are just and proper and are hereby confirmed. Thus, the total compensation payable to the claimants under various Heads is as hereunder:-



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<i>S.No</i>	<i>Head</i>	<i>Amount granted (in Rs.)</i>
1.	Loss of Dependency	5,31,972/-
2.	Loss of Consortium	1,32,000/-
3.	Loss of Estate	16,500/-
4	Funeral Expenses	16,500/-
5.	Transportation	5,500/-
Total		7,02,472/-
Rounded off		7,02,500/-

10. Accordingly, the Appeal is partly allowed and the impugned Award of the Tribunal is modified by enhancing the compensation amount from **Rs.5,34,500/-** to **Rs.7,02,500/-**. The second respondent is directed to deposit the said amount to the credit of M.C.O.P.No.1558 of 2013 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 six weeks from the date of receipt of a copy of this judgment. Upon such deposit being made, the Tribunal is directed to transfer the entire amount to the respective bank accounts, by way of RTGS, within a period of three weeks from the deposit or from the date of receipt of the Bank details



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obtained from the claimants or application for withdrawal from the claimant, whichever is later. Out of total compensation availed to the appellants, first appellant, the wife of the deceased is entitled to a sum of **Rs.5,02,500/-** together with proportionate interest; second and third appellants, the daughter of the deceased are entitled to a sum of **Rs.1,00,000/-** each along with proportionate interest. It is made clear that the claimants will not be entitled for any interest for the delay period of 205 days. The appellants/claimants are directed to pay the court fee for the enhanced compensation, if any. No costs.

28.02.2024

Index : Yes / No

NCC : Yes / No

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To

1. The Motor Accident Claims Tribunal,
III Court of Small Causes,
Chennai.
2. The Section Officer,
V.R. Section,
High Court, Madras.



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Krishnan Ramasamy,J.,

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