



C.M.A.No.649 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.649 of 2024

1.S.Devi
2.M.Subramani
3.S.Suguna

...Appellant

Vs

1.Srividya Rajesh
2.The Oriental Insurance Co. Ltd.,
No.115/216, Prakasam Road,
Chennai 600 108.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the quantum of compensation as granted under judgment and decree dated 09.06.2022 in MCOP.No.2338 of 2020 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai.

For Appellant : Ms.P.T.Saleem Fathima

For Respondent : Mr.D.Bhaskaran, for R2



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JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgment and decree dated 09.06.2022 in MCOP.No.2338 of 2020.

2. The learned counsel for the claimant would submit that on 28.05.2020 while the sons of the appellants 1 and 2 was riding a motor cycle bearing Registration No.TN-14-H-9774 at ECR Road, a car bearing Registration No.TN-14-L-9864 came in a rash and negligent manner and dashed against him, due to which he sustained grievous injuries and admitted at Rajiv Gandhi Government Hospital, and succumbed to death on 02.06.2020. 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	15,12,000
2	Loss of Estate	15,000
3	Loss of Consortium	80,000
4	Funeral Expenses	15,000
	Total	16,22,000



3. Further, he would submit that the accident was occurred in the year 2020. At the time of accident, the deceased was aged about 19 years and working as a Vehicle Water Service Man in Royal Enfield Service Centre and earning a sum of Rs.15,000/- per month. Without considering the said aspect, the Tribunal had fixed the notional income of the deceased as a sum of Rs.10,000/- per month, which is on the lower side. Hence, she requests this Court to fix a sum of Rs.15,000/- as notional income of the deceased.

4. Further, she would submit that though the deceased was treated at a Hospital for a period from 28.05.2020 to 02.06.2020, no compensation was awarded towards Transportation. Hence, she requests this Court to award the re-determine the compensation awarded by the Tribunal.

5. In reply, the learned counsel for the respondent would submit that though the accident was occurred in the year 2020, since the deceased was only aged about 19 years and working as a Vehicle Water Service Man in Royal Enfield Service Centre, he requests this Court to fix a sum of Rs.12,000/- as notional income of the deceased.



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

7. In the present case, there is no doubt with regard to the fixation of negligence and fastening of liability. The only issue that has to be decided in this appeal is with regard to the quantum of compensation awarded by the Tribunal, particularly, the fixation of notional income of the deceased. The accident was occurred in the year 2020 and at the time of accident, the deceased, who was aged about 19 years, was working as Vehicle Water Service Man in Royal Enfield Service Centre. In such case, the notional income fixed by the Tribunal for a sum of Rs.10,000/- appears to be too low. Thus, this Court is inclined to fix a sum of Rs.13,500/- as notional income of the deceased. Hence, by adding 40% towards future prospects, applying 18 as multiplier and deducting 50% towards personal expenses of the deceased, the loss of income would be calculated as follows:

$$\begin{aligned} & \text{Rs.13,500/- (notional income) + Rs.5,400/- (40\% future prospects)} \\ & * 12 \text{ (months)} * 18 \text{ (multiplier)} * (1/2) \text{ (deduction towards personal expenses)} \\ & = \text{Rs.20,41,200/-} \end{aligned}$$



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8. Further, it appears that the deceased was admitted and treated at the Hospital for a period from 28.05.2020 to 02.06.2020, however, no amount was awarded towards Transportation and hence, a sum of Rs.10,000/- is awarded towards Transportation. That apart, since no amount was awarded towards loss of love and affection to the 3rd appellant, who is the sister of the deceased, this Court award a sum of Rs.20,000/- towards the same.

9. 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	15,12,000	20,41,200
2	Loss of Estate	15,000	15,000
3	Loss of Consortium	80,000	80,000
4	Funeral Expenses	15,000	15,000
5	Transportation	Nil	10,000
6	Loss of Love and Affection towards 3 rd appellant	Nil	20,000
	Total	16,22,000	21,81,200



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10. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.21,81,200/-. Accordingly, the award amount stands increased from a sum of Rs.16,22,000/- to Rs.21,81,200/-. In all other aspects, the award of the Tribunal stands confirmed. It is also made clear that the compensation will be awarded to the claimants in the following proportions:

- i) Father of the deceased – Rs.9,00,000/-
- ii) Mother of the deceased – Rs.10,00,000/-
- iii) Sister of the deceased – Rs.2,81,200/-

11. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.21,81,200/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.2338 of 2020 on the file of the Motor Accident Claims Tribunal, Chief Judge, Small Causes Court, Chennai. Upon such deposit, the Tribunal is directed to transfer the award amount to the claimants to their respective bank



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accounts, as per the proportion determined by this Court, 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.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

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