



WEB COPY



C.M.A.No.151 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2024

C O R A M

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

C.M.A.No.151 of 2024

1.T.Mohan
2.M.Vanaja

...Appellant

Vs

1.P.Srinivasan
2.The United India Insurance Company Limited,
No.38, Anna Salai, Chennai 600 002.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the amount awarded in MCOP.No.2554 of 1999 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Judge, Ist Fast Track Court, Chennai.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents : Mr.D.Bhaskaran, for R2



WEB COPY



C.M.A.No.151 of 2024

JUDGMENT

This civil miscellaneous appeal has been filed to enhance the compensation awarded vide the judgement dated 27.02.2003 in MCOP.No.2554 of 1999.

2. The learned counsel for the appellants would submit that on 25.05.1995, when the daughter of the appellants was crossing the road, a lorry bearing Registration No.28-7389 came in a rash and negligent manner and dashed against her, due to which, she was died on the spot. Considering all the aspects the Tribunal had awarded the following compensation:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	1,50,000
2	Lawyer expenses	6,000
	Total	1,56,000

3. Further, he would submit that initially, the Tribunal had fixed the notional income of the deceased as a sum of Rs.1,500/- and deducted 1/3 towards the personal expenses of the deceased and determined the



compensation as a sum of Rs.1,80,000/-. However, since only a sum of Rs.1,50,000/- was claimed by the claimants, the Tribunal has restricted the compensation and awarded only a sum of Rs.1,50,000/-. Hence, he would contend that though the loss of compensation was claimed only for Rs.1,50,000/-, the claimants are legally entitled for a sum of Rs.1,80,000/- and the same cannot be restricted by the Tribunal.

4. In reply, the learned counsel for the respondent would submit that in the present case, since the deceased was aged about 6 years at the time of accident, the Tribunal has fixed the notional income as a sum of Rs.1,500/- by deducting 1/3 towards personal expenses of the deceased. Further, he would fairly submit that now-a-days, many orders have been passed by awarding compensation towards loss of income without making any deduction towards the personal expenses of a deceased child aged about 6 years and hence, he would suggest that the compensation may be awarded without any deduction towards personal expenses of the deceased by fixing a sum of Rs.15,000/- per annum as notional income of the deceased instead of Rs.18,000/- per annum.



5. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.

6. In the present case, since the deceased is aged about 6 years at the time of death, this Court is inclined to take a sum of Rs.15,000/- per annum as notional income and award the compensation by applying multiplier as '15' and without making any deduction towards personal expenses of the deceased. Hence, the loss of income would be calculated as follows:

$$\text{Rs.15,000/- (income) * 15 (multiplier) = Rs.2,25,000/-}$$

7. Further, since the Tribunal had not awarded any compensation towards funeral expenses, loss of love and affection and transportation, this Court is inclined to award a sum of Rs.5,000/- towards funeral expenses, Rs.30,000/- (Rs.15,000/- each) towards loss of love and affection and Rs.3,000/- towards transportation. Accordingly, the compensation awarded by the Tribunal is modified as follows:



S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
1	Loss of Income	1,50,000	2,25,000
2	Lawyer expenses	6,000	6,000
3	Funeral Expenses	Nil	5,000
4	Loss of Love and Affection	Nil	30,000
5	Transportation	Nil	3,000
	Total	1,56,000	2,69,000

8. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.2,69,000/-. Accordingly, the award amount stands enhanced from a sum of Rs.1,56,000/- to Rs.2,69,000/-. In all other aspects, the award of the Tribunal stands confirmed.

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.2,69,000/- along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.2554 of 1999 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Judge, Ist Fast Track Court, Chennai. Further,



C.M.A.No.151 of 2024

the appellants/claimants shall pay necessary Court fee, if any, on the enhanced compensation. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the respective bank accounts of the claimants by way of RTGS, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimants or application for withdrawal from the claimants, whichever is earlier. No costs.

30.01.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa

To:

The Motor Accident Claims Tribunal,
Additional District and Sessions Judge,
1st Fast Track Court, Chennai



WEB COPY



C.M.A.No.151 of 2024

KRISHNAN RAMASAMY,J.

nsa

C.M.A.No.151 of 2024

30.01.2024