



C.M.A.No.856 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.856 of 2020

1.Deivasigamani
2.Selvam
3.D.Mallika
4.D.Sathya

... Appellants

Vs.

1.Devakumar
2.N.Kandasamy

3.Chola Mandalam MS General
Insurance Company Limited,
Dare House, 2nd Floor,
No.2, N.S.C.Bose Road,
Chennai 600 001.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award of the Learned Motor Accidents Claims Tribunal (First Additional Court) Erode M.C.O.P.No.403 of 2011 dated 31.07.2013.

For Appellants : Mr.A.K.Kumarasamy

For Respondents : R1 – NRN
R2 – No Appearance
Mrs.R.Sreevidhya for R3



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J U D G M E N T

This appeal has been filed by the appellants/ claimants challenging the judgment and decree passed in M.C.O.P.No.403 of 2011 dated 31.07.2013 on the file of the Motor Accidents Claims Tribunal (First Additional Court) Erode.

2.The learned counsel appearing for the appellants submitted that on 19.03.2011 at about 4.30 p.m., the deceased Thirunavukarasu was riding as a pillion rider in the motor cycle bearing Registration No.TN 56 A 7930 driven by his friend Ranjithkumar in Villarasampatti to Kaniravutharkulam Road at Ellapalayam. At that time, the driver of the lorry bearing Registration No.TN 29 AA 3556 came in the opposite direction in a rash and negligent manner and dashed against the motorcycle, due to which, he died on the spot.

3.The learned counsel appearing for the appellants further submitted that thereafter, the parents and sisters of the deceased Thirunavukarasu/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.21 Lakhs as compensation for the death of Thirunavukarasu. After adjudication,



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the Tribunal awarded a sum of Rs.7,20,000/- as compensation along with interest at the rate of 7.5% per annum from 27.04.2011, the date of filing of the petition till the date of realization with proportionate costs and directed the third respondent to deposit the compensation. Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants further submitted that the deceased was 23 years at the time of accident and he had just completed B.Sc., M.B.A. Course at Suriya Engineering College. The learned counsel further submitted that the third respondent did not dispute the negligence aspect and further submitted that the Tribunal ought to have fixed the notional monthly income of the deceased as Rs.9,000/- per month, however, the Tribunal fixed the notional monthly income of the deceased as Rs.7,500/- per month and further submitted that the correct multiplier to be adopted is 18, whereas, the Tribunal adopted the multiplier 14 and awarded compensation, which is not sustainable one and further submitted that the Tribunal awarded only a meagre sum of Rs.80,000/- towards loss of love and affection and hence, the appellants are entitled for enhanced compensation.



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5.Per contra, the learned counsel appearing for the third respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the third respondent and perused the materials available on record.

7.Admittedly, on 19.03.2011 at about 4.30 p.m., the deceased Thirunavukarasu was travelled as a pillion rider in the motor cycle bearing Registration No.TN 56 A 7930 driven by his friend Ranjithkumar in Villarasampatti to Kaniravutharkulam Road at Ellapalayam. At that time, the driver of the lorry bearing Registration No.TN 29 AA 3556 came in the opposite direction in a rash and negligent manner and dashed against the motorcycle, due to which, he died on the spot.

8.The accident and the manner in which the accident happened



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are not disputed. This appeal has been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

9.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.6,30,000/- for loss of dependency, Rs.10,000/- for funeral expenses, Rs.80,000/- for loss of love and affection and arrived at a total compensation of Rs.7,20,000/- with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of realization.

10.Though the claimants claim the age of the deceased as 23 years at the time of accident, the Tribunal has considered the age of the deceased as 22 years and the deceased had just completed B.Sc., M.B.A. Course at Suriya Engineering College. Hence, this Court fix a sum of Rs.9,000/- as the monthly notional income of the deceased. Since the deceased was a bachelor, $\frac{1}{2}$ of the amount has to be deducted towards personal expenses. The deceased was aged 22 years at the time of death. Hence, the correct multiplier to be adopted is 18. If 40% of notional income is awarded for future prospects, the amount awarded for loss of dependency works out to Rs.13,60,800/-



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[Rs.9,000/- X 40% = Rs.3,600/-; Rs.9,000/- + Rs.3,600/- = Rs.12,600/-; Rs.12,600 X 50% = Rs.6,300/-; Rs.6,300/- X 12 X 18 = Rs.13,60,800/-].

11.This Court is of the opinion that some amount has to be awarded for loss of estate. Accordingly, this Court awards a sum of Rs.15,000/- for loss of estate. The amount awarded under the head funeral expenses and loss of love and affection, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said heads. Accordingly, the amount awarded for funeral expenses is enhanced to Rs.15,000/- from Rs.10,000/- and the amount awarded for loss of love and affection is enhanced to Rs.1,60,000/- [4 X Rs.40,000/-] from Rs.80,000/-.

12.Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of dependency	Rs.6,30,000/-	Rs.13,60,800/-
2.	Funeral Expenses	Rs. 10,000/-	Rs. 15,000/-
3.	Loss of love and affection	Rs. 80,000/-	Rs. 1,60,000/-
4.	Loss of estate	---	Rs. 15,000/-
	Total	Rs.7,20,000/-	Rs.15,50,800/-



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13.The claimants are entitled to total compensation of Rs.15,50,800/- along with interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of realization.

14.The civil miscellaneous appeal is partly allowed. The judgment and decree passed in M.C.O.P.No.403 of 2011 dated 31.07.2013 by the Motor Accidents Claims Tribunal (First Additional Court) Erode, is modified to the above extent.

15.The third respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants/ claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellants/ claimants are directed to pay the



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requisite Court fee for the enhanced compensation amount, if required.

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M.DHANDAPANI,J.
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The Motor Accidents Claims Tribunal (First Additional Court) Erode, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

16.The civil miscellaneous appeal is partly allowed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal
(First Additional Court) Erode.

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