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C.M.A.No.4336 of 2019

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 02.07.2024

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.4336 of 2019

1.P.Godadevi
2.P.V.Sri Hari
3.P.V.Sri Krishna
4.Sri Latha
5.P.V.Sriram

.. Appellants

Vs

1.M/s.Srivatsa Enterprises,
No.12, 11th main road,
Thiruvalluvar Nagar,
Chennai – 118.

2.The New India Assurance Company Ltd.,
No.45, Moore Street,
Chennai – 1.

.. Respondents

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 15.02.2013 passed in MCOP.No.4905 of 2006 on the file of the Motor Accident Claims Tribunal, 2nd Small Causes Court, Chennai.

For Appellants : Mr.R.Ramesh

For R2 - Mr.C.Ramesh Babu
For R1 - No Appearance

JUDGMENT



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This appeal has been filed by the claimants seeking for enhancement of compensation.

2. The Tribunal, under the impugned award, has directed the second respondent Insurance Company to pay the claimants a compensation of Rs.3,25,000/- as detailed hereunder:-

Pecuniary loss	- Rs.2,60,000/-
Loss of consortium	- Rs.20,000/-
Funeral expenses	- Rs.5,000/-
Loss of love and affection	- Rs.40,000/-
Total	- Rs.3,25,000/-

3. In the impugned award, the Tribunal has erroneously deducted 1/3rd towards personal expenses of the deceased, despite the fact that the claimants are 5 in number. The claimants are the wife and 4 children of the deceased. When the dependents are 5 in number, the Tribunal ought to have deducted 1/4th towards personal expenses of the deceased as per the settled law, whereas, the Tribunal has erroneously deducted 1/3rd towards personal expenses of the deceased. The appellants are not challenging the fixation of the monthly income at Rs.6490/- fixed by the Tribunal under the impugned award. Since the deceased was 63 years old



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at the time of the incident, the Tribunal has rightly adopted multiplier '7'

in accordance with law. Accordingly, Rs.2,60,000/- awarded by the

Tribunal towards pecuniary loss is modified as detailed hereunder:-

Monthly income	-- Rs.6,490/-
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(-) 1/4 th towards personal expenses	-- Rs.1,622/-
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Pecuniary loss

= 4868 x 12 x 7	-- Rs.4,08,912/-
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4. The Tribunal has committed an error in awarding a meagre compensation of Rs.60,000/- towards loss of love and affection, i.e., Rs.20,000/- for the wife; and Rs.10,000/- each for the four children of the deceased. As per the settled law, each of the dependent will have to be awarded Rs.40,000/-. Since the deceased died leaving behind his wife and four children, who are five in number, each of the claimants are entitled to Rs.40,000/- as compensation towards loss of love and affection, and in all put together, the claimants are entitled to Rs.2,00,000/- towards loss of love and affection, instead of Rs.60,000/- erroneously awarded by the Tribunal. Since the wife of the deceased is also added while computing compensation towards loss of love and affection, this Court is not awarding compensation towards loss of



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consortium separately.

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5. Towards funeral expenses, the Tribunal has awarded a meagre sum of Rs.5,000/-, which is increased to Rs.15,000/-. The Tribunal has also failed to award any compensation towards loss of estate, which the claimants are legally entitled to. As per the settled law, the claimants are entitled to Rs.15,000/- towards loss of estate and accordingly, Rs.15,000/- is awarded towards loss of estate.

6. For the foregoing reasons, the award passed by the Tribunal is re-worked in the following manner:-

Pecuniary loss	-- Rs.4,08,912/-
Loss of love and affection	-- Rs.2,00,000/-
Funeral expenses	-- Rs.15,000/-
Loss of estate	-- Rs.15,000/-
Total compensation	-- Rs.6,38,912/-

7. In the result, the Civil Miscellaneous Appeal is allowed and the impugned award passed by the Tribunal in M.C.O.P.No.4905 of 2006, dated 15.12.2013 is modified by directing the second respondent Insurance Company to deposit the entire award amount of Rs.6,38,912/- together with interest at 7.5% per annum from the date of claim petition



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till the date of realization, to the credit of M.C.O.P.No.4905 of 2006 on the file of Motor Accident Claims Tribunal, 2nd Small Causes Court, Chennai, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. The second respondent Insurance Company is directed to not deposit interest for the default period as observed by this Court vide its order dated 05.11.2019. On such deposit, the Tribunal is directed to transfer the entire award amount as ordered in this judgment along with accrued interest therein through RTGS/NEFT transfer to the bank account of the claimants as apportioned by the Tribunal. The claimants are directed to pay additional court fee for the enhanced compensation. No Costs.

02.07.2024

Index: yes/no
Neutral citation: yes/no
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ABDUL QUDDHOSE,J.

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WEB COPY To

Motor Accident Claims Tribunal,
2nd Small Causes Court,
Chennai.

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