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CMA No.3258 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3258 of 2021

Judgment reserved on 27.02.2024	Judgment pronounced on 01.03.2024
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1.S.Shanthi
2.K.Sanjeevi

... Appellants

Vs.

1.A.Anisten
2.The New India Assurance Company Limited
No.45, Moore Street,
Chennai – 600 001.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 06.08.2015 made in MCOP No.1073 of 2013 on the file of the Motor Accident Claims Tribunal, III Additional District Judge, Poonamallee.

For Appellant : Mr.A.G.F.Terry Chella Raja
For R-1 : Dispensed with
For R2 : Mr.J.Chandran

JUDGMENT

The claim petitioners are the appellants herein seeking enhancement of compensation awarded in MCOP No.1073 of 2013 dated



CMA No.3258 of 2021

06.08.2015 on the file of the Motor Accident Claims Tribunal, III

Additional District Judge, Poonamallee.

2. The parents of the deceased Venkatesan are the appellants herein. They filed the above said claim petition before the Tribunal for the death of their son who died in the road transport accident occurred on 26.11.2013.

3. The factum of accident, manner of accident, rash and negligent driving on the part of the driver of the vehicle belonging to the first respondent and the vehicle being insured with the second respondent/insurance company are not in dispute. Accordingly, the findings rendered by the Trial Court with regard to negligence are hereby confirmed.

4. On the point of quantum of compensation, heard the learned counsel for the appellants as well as the second respondent / insurance company and perused the records.

5. On perusal of the records, it is seen that during trial before the Tribunal, the first appellant/claim petitioner examined herself as PW1 and



CMA No.3258 of 2021

occurrence witness was examined as PW2 and Kandan, co-worker who worked alongwith the deceased as lab chemists was examined as PW3.

Ex.P13 -salary certificate was marked to show that at the time of accident the deceased was earning Rs.16,500/- per month. However, there is one correction in pen as to the date of issuance of the said certificate and hence, the Tribunal has entertained a doubt with regard to the said certificate. Taking into consideration Exs.P8 & P9 – educational qualification certificate and mark list respectively, this Court comes to the conclusion that the deceased Venkatesan is a qualified M.Sc graduate and was working as a lab chemists. Therefore, the notional income fixed by the Tribunal at Rs.10,000/- per month is enhanced to Rs.14,000/-.

6. As per Ex.P11 – driving licence of the deceased, the date of birth of the deceased is 30.07.1986. Hence, on the date of accident, the deceased was aged 27 years. As per the judgment of the Hon'ble Supreme Court in ***SARLA VERMA & OTHER v. Delhi Transport Corporation & Another reported in 2009 (2) TNMAC (1) SC***, the multiplier applicable is 17. Following the judgment of the Hon'ble Supreme Court in ***National Insurance Company Limited v. Pranay Sethi and others reported in 2017 (2) TNMAC 609***, 40% enhancement is awarded towards future prospects.



CMA No.3258 of 2021

The deceased died as bachelor and hence 50% has to be deducted towards personal expenses of the deceased. Thus, the compensation towards loss of income is enhanced to Rs.19,99,200/-, break-up as follows -

$$14,000 + 5600 (14000 \times 40\%) \times 12 \times 17 \times 50\% = 19,99,200/-$$

7. The parents of the deceased Venkatesh have lost their son at his young age. The Tribunal has awarded a sum of Rs.1,00,000/- towards loss of love & affection which is meagre and hence the same is enhanced to Rs.1,50,000/- (Rs.75,000/- x 2). The Tribunal has not awarded any compensation towards transportation charges and loss of estate. Therefore, Rs.15,000/- each is awarded towards transportation charges and loss of estate. The amount awarded by the Tribunal towards mental agony is unsustainable and hence the same is hereby set aside. The amount awarded by the Tribunal towards funeral expenses is just and reasonable and therefore, the same is hereby confirmed. Accordingly, the compensation awarded by the Tribunal is enhanced from **Rs.8,75,000/- to Rs.21,94,200/-**, break-up as follows -



CMA No.3258 of 2021

Sl. No	Heads under which the amount is awarded	Amount awarded by the Tribunal – Rs.	Amount awarded by this Court – Rs.
1.	Loss of income	6,60,000/-	19,99,200/-
2.	Mental agony	1,00,000/-	-
3.	Loss of love & affection	1,00,000/-	1,50,000/-
4.	Funeral expenses	15,000/-	15,000/-
5.	Transportation charges	-	15,000/-
6.	Loss of estate	-	15,000/-
	Total	8,75,000/-	21,94,200/-

8. In total, the appellants are entitled to a sum of **Rs.21,94,200/-**

(Rupees Twenty One Lakhs Ninety Four Thousand and Two Hundred only)

9. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the award amount from **Rs.8,75,000/- to Rs.21,94,200/-**, to the extent indicated above, alongwith interest @ 7.5% per annum. No costs.

(ii) the second respondent/Insurance Company is directed to deposit the enhanced award amount before the Tribunal, within a period of eight weeks from the date of receipt of a copy of this order, less the amount, if any already deposited.

(iii) on such deposit being made, the claim petitioners/appellants



CMA No.3258 of 2021

are permitted to withdraw the entire enhanced award amount on the basis of apportionment fixed by the Tribunal, less the award amount if any, already withdrawn, by filing necessary application before the Tribunal.

(iv) as per the order of this Court dated 24.08.2021 made in CMP No.13064 of 2021 in CMA SR No.41211 of 2017, the appellants are not entitled for interest on the enhanced award amount.

(v) the appellants are directed to pay the court fee as per the order of this Court dated 23.07.2021 made in CMP No.10648 of 2021 in CMA SR No.41211 of 2017 for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

01.03.2024

rgr

Index : Yes/No

Speaking/Non-speaking order

To

1.The III Additional District Judge,
Motor Accident Claims Tribunal,
Poonamallee.

2.The Section Officer,
V.R. Section,
High Court, Madras.



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CMA No.3258 of 2021

RMT.TEEKAA RAMAN, J.

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01.03.2024