



C.M.A(MD)No.965 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.965 of 2023

1.K.Velu
2.V.Ponnuthai
3.V.Muneeswari
4.V.Arun
5.Amutha

... Appellants

Vs.

1.KNR Construction Limited,
Through its Manager,
No.5/263, Linda Garden,
Nethaji Nagar, Seikalathur,
Manamadurai Taluk,
Sivagangai District.

2.The New India Assurance Company
Limited,
Through its Manager,
No.242-B, Kamaraj Salai,
Madurai-09.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree, dated 14.07.2022, in M.C.O.P.No.266 of 2018 on the file of Motor Accident Claims Tribunal (Additional District Judge), Sivangangai.



For Appellants : Mr.M.Saravanakumar
For R1 : No appearance
R2 : Mr.A.Ilango

JUDGEMENT

This Civil Miscellaneous Appeal is filed by the claimants against the award passed by the Tribunal.

2. The contention that was raised by the appellants / claimants is that the Tribunal has taken the salary of the deceased as Rs.12,000/- which is on a lower side. The deceased was a graduate with B.B.A., degree, he is unmarried and he was working as Sales Supervisor in Timepass Bakery and Sweets. The date of death was on 20.06.2018 and the Tribunal has failed to take future prospects and inflation.

3.The learned Counsel appearing for the appellants relied on the judgment rendered by another Learned Single Judge of this Court in C.M.A.No.401 of 2023, dated 09.08.2023 in the case of ***E.Hemamma Vs. Sandip Gupta and others***. The Learned Single Judge has relied on the judgment rendered by the Hon'ble Division Bench of this Court in C.M.A.No.2626 of 2022, wherein the Hon'ble Division



Bench has fixed the notional income as Rs.17,000/- for a Mason who died in the accident in the year 2019. The Learned Single Judge has rightly held that for notional fixation of income depends upon various factors and it cannot be adopted as it is. As rightly pointed out by the learned Counsel appearing for the 2nd respondent, the deceased was working as Supervisor in Food Industry and in the judgment relied on by the appellants, the Learned Single Judge has taken only Rs. 14,000/- and not Rs.17,000/-.

4. Therefore, this Court is of the considered opinion that Rs.17,000/- is on a higher side, at the same breath, Rs.12,000/- is on a lower side. In order to meet the ends of justice Rs.14,000/- will be the appropriate fixation of salary. Therefore, this Court is enhancing the salary to the tune of Rs.14,000/- and the modified the compensation is as under:

i.	Monthly income of the deceased	Rs.14,000/-
ii.	Loss of future income (40%)	Rs.5,600/-
Total		Rs.19,600/-
50% of income deducted towards personal expenses		50% of Rs.19,600/- =Rs.9,800/-



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Head	Awarded by this Court	Awarded by Tribunal
Loss of dependency (Rs.9,800*12*18)	Rs.21,16,800/- (enhanced)	Rs.18,14,400/- (Rs.8400*12*18)
Loss of estate	Rs.16,500/- (confirmed)	Rs.16,500/-
Loss of Filial Consortium (2*44,000)	Rs.88,000/- (confirmed)	Rs.88,000/-
Funeral Expenses	Rs.16,500/- (confirmed)	Rs.16,500/-
Total	Rs.22,37,800/- (enhanced)	Rs.19,35,400/- (subtracting 10% contributory negligence = Rs.17,41,860/-)

5.The 2nd respondent is directed to deposit **Rs.22,37,800/-** with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., before the Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants 1 and 2 are permitted to withdraw their shares (both are entitled to equal share) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. It is made clear that only the appellants 1 and 2 are entitled to the award amount. The appellants 3, 4 and 5 are brothers and sisters, therefore, they are not entitled to the award.



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6. With the above said observation, the Civil Miscellaneous Appeal is partly allowed. No costs.

18.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

1. Motor Accident Claims Tribunal
(Additional District Judge), Sivangangai.

2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

Tmg

Order made in
C.M.A(MD)No.965 of 2023

18.01.2024