



C.M.A.(MD)No.857 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **04.07.2024**

CORAM :

JUSTICE N.SESHASAYEE

and

JUSTICE P.VADAMALAI

C.M.A(MD)No.857 of 2017

1.R.Venkatramanan
2.Minor V.Prasanna Venkatesh
3.Minor Ragavendra Prasad ... Appellants/Petitioners(Claimants)

(Minor petitioners Nos.2 and 3 through their
father and next friend the petitioner No.1 herein)

Vs.

1.K.Kittu
2.Bajaj Alliance General Insurance Co. Ltd.,
Tamilnadu Sarvodaya Sangh Gramodyog Bhavan,
NO.108, 2nd Floor, T.P.K. Road,
Madurai 625 001. ... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 to enhance the award dated 10.11.2016 made in M.C.O.P.No.923 of 2010 on the file of the Motor Accident Claims Tribunal,(Principal District Judge) Tiruchirappalli.

For Appellants : Mr.V.Kannan
For R1 : No appearance
For R2 : Mr.J.S.Murali



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JUDGMENT

[Judgment of the Court was delivered by **N.SESHASAYEE, J.**]

The claimants in M.C.O.P.No.923 of 2010 on the file of the Motor Accident Claims Tribunal (Principal District Court), Tiruchirappalli, are the appellants. They are particularly aggrieved by what they received as inadequate compensation granted by the Tribunal.

2. In a road accident, involving a two wheeler bearing Registration No.TN-48-H-0865 and a Omni Van bearing No.TN-48-M-8084, that took place on 14.12.2009, the pillion rider of the motorcycle died and the husband of the victim was riding the motorcycle at the relevant time. Seeking compensation for the death of the victim, her heirs moved the Tribunal in M.C.O.P.No.923 of 2010.

3. The victim was working as the Clerk-cum-Typist, who was also stated to have been authorized to discharge the responsibilities of a Cashier of Srirangam Co-operative Urban Bank Ltd. About a year prior to her death, she was earning Rs.21,854/- per month as salary.



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4. However, she faced certain disciplinary proceedings and at the time of her death, she had been terminated from service. Before her death, she filed a Review Petition before the Regional Sub-Registrar and the same was dismissed. Thereafter, she had filed a Review Petition before the Government. By proceedings of the Co-operative, Food and Consumer Protection (Sippi-2) Department, dated 12.10.2010, the Review Petition was dismissed and the Department has confirmed the punishment of termination. Challenging the order dated 12.10.2010, the victim approached this Court by filing W.P(MD)No.1560 of 2011. Vide order dated 06.09.2019, this Court required the Government to re-visit the issue. During the pendency of the appeal with the Government, she died. Thereafter, the Government, vide proceedings dated 15.09.2020 revoked the order of termination and ordered to grant monetary benefits to her heirs.

5. During the pendency of the aforesaid proceedings concerning the services of the victim of the accident, the Tribunal had passed its award on 10.11.2016. The Tribunal, by taking into account the fact that the victim was technically not employed on the date of her death, had proceeded to fix the income notionally at Rs.6,000/- per month. It also



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reckoned her age at 46 based on Ex.P.2, postmortem report and applied multiplier '13' and deducted 1/3rd towards personal expenditure of the victim and arrived at the value of loss of dependency at Rs.6,24,000/-. After providing for conventional heads of compensation, the Tribunal passed an award of Rs.6,94,000/-. The break up is as follows:

<i>Sl. No.</i>	<i>Heads of Compensation</i>	<i>Amount awarded by Tribunal (Rs.)</i>
1.	Loss of dependency	6,24,000.00
2.	Loss of consortium to 1 st petitioner	20,000.00
3.	For love and affection	30,000.00
4.	Transport Expenses	10,000.00
5.	Funeral expenses	10,000.00
Total :		6,94,000.00

This order is now under challenge.

6. Heard both sides.

7. The learned counsel for the appellants submitted that the ultimate remedy *vis-a-vis* the victim's services has come to an end only during the pendency of the present appeal. The fact remains that the appellants have established capacity of the victim to earn Rs.21,854/- even a year prior to the accident. Therefore, the Tribunal ought not to have considered about the



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factual aspect of termination of service since the capacity to earn one year prior to the accident had been proved.

8. This Court is constrained to take Rs.21,854/- as the monthly income of the victim, which is now rounded upto Rs.21,850/-. Hence, the loss of dependency comes $(Rs.21,850 \times 12 + 25\% \times 13 - 1/3^{rd})$ at Rs.17,04,300/-. This Court enhances the amount in other heads also, which is tabulated herein under:

<i>Sl. No.</i>	<i>Heads of Compensation</i>	<i>Amount awarded by this Court (Rs.)</i>
1.	Loss of dependency	17,04,300.00
2.	Loss of consortium to 1 st petitioner	40,000.00
3.	For love and affection	1,20,000.00
4.	Transport Expenses	15,000.00
5.	Funeral expenses	15,000.00
Total :		18,94,300.00

9. The claimants are entitled to withdraw the compensation amount herein fixed by this Court with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The Insurance Company shall deposit the award amount within a period of eight weeks from the date on which this judgment is hosted in the official web-site. The



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claimants are entitled to the enhanced compensation in the ratio as apportioned by the Tribunal. The minor claimants/petitioners 1 and 2 are continued to be the minors and therefore, their share with proportionate interest is directed to be deposited in a nationalized bank till they attain majority. The interest on such deposit is permitted to be withdrawn by the guardian/the father once in three months directly from the bank.

10. In fine, the appeal is partially allowed. No costs.

(N.S.S., J.) (P.V.M., J.)
04.07.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

1. Motor Accident Claims Tribunal,(Principal District Judge)
Tiruchirappalli.

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



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and
P.VADAMALAI, J.

CM

Judgment made in
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