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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1226 of 2022

1.Thiruvadathu Maideen

2.Fathimakani

... Appellants

Vs.

1.C.Natarajan

2.The Divisional Manager,
United India Insurance Company,
K.A.R. Towers,
Salai Road, Dindigul.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, praying to allow this appeal and enhance the compensation awarded made in M.C.O.P.No.872 of 2018 dated 23.04.2022, on the file of the Motor Accident Claims Tribunal Principal District Judge, Dindigul.

For Appellants : Mr.S.Pugalendhi

For Respondent No.1 : Dispensed with

For Respondent No.2 : Mr.N.Dilip Kumar



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JUDGEMENT

The claimants have preferred this appeal for enhancing the compensation granted by the Tribunal in M.C.O.P.No.872 of 2018 dated 23.04.2022, on the file of the Motor Accident Claims Tribunal Principal District Judge, Dindigul.

2. The deceased is brother of the driver of the vehicle. The owner's son, brother of the driver and driver of the vehicle were travelling. The vehicle had hit the Tamarind tree and all the three persons died on the spot.

3. The present Civil Miscellaneous Appeal is filed by the parents of the deceased who is brother of the driver.

4. The contention of the claimants is that the accident had occurred in the year 2008. Then, the notional income ought to be fixed as per ***Syed Sathik's case*** to the tune of Rs.6,500/-, but the Tribunal has taken Rs.2,000/- as notional income is on the lower side. As per ***Syed Sathik's case***, the accident took place in the year 2008, even in the present case, the accident occurred in the year 2008. But the claimants have preferred the claim petition in the year 2018. Therefore, in order to meet the ends of justice, this Court is inclined to



fix monthly salary is Rs.6,000/- .

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Monthly income is	Rs.6,000/-
40% future prospectus	Rs.2,400/-

	Rs.8,400/-
Annual income is	Rs.8,400 x 12
	= Rs.1,00,800/-
DEDUCT ½ towards personal expenses	= Rs.50,400/-
For the age of 21 years, the multiplier 18 is to be applied.	= Rs.9,07,200/-

5. As far as the loss of estate the Tribunal has granted a sum of Rs.1,000/- the same is increased to Rs.15,000/-. For funeral expenses, the Tribunal has granted Rs.1,000/-and this Court is inclined to increase the same as Rs.15,000/- For transport expenses the Tribunal has granted a sum of Rs. 1,000/- the same is increased to Rs.5,000/-. As far as the loss of consortium the Tribunal has granted a sum of Rs.4,000/-, but the claimants are entitled to a sum of Rs.40,000/-, each, [Rs.40,000 x 2 =Rs.80,000/-]



6. Accordingly, the claimants are entitled for compensation as follows:

S. No.	Description	Amount awarded by Tribunal this Court		Award confirmed / enhanced / granted
1.	For loss of dependency	Rs.3,02,400/-	Rs.9,07,200/-	Enhanced
2.	For loss of estate	Rs. 1,000/-	Rs. 15,000/-	Enhanced
3.	For loss of consortium [2 x Rs.40,000/-]	Rs. 4,000/-	Rs. 80,000/-	Enhanced
4.	For Funeral expenses	Rs. 1,000 /-	Rs, 15,000/-	Enhanced
5.	For transport expenses	Rs. 1,000/-	Rs. 5,000/-	Enhanced
Total		Rs.3,09,400/-	Rs.10,22,200/-	

This Court is enhancing a sum of Rs.10,22,200/- as compensation, from the total compensation of Rs.3,09,400/- granted by the Tribunal.

7. Accordingly, this Court is enhancing a sum of Rs.10,22,200/- as compensation, from the compensation granted by the Tribunal Rs.3,09,400/-. Since the claimants had filed the appeal belatedly this Court is inclined to reduce the interest and hence the Insurance Company shall pay 50% of 7.5% interest per annum. The Insurance Company is directed to deposit the entire compensation amount with 50% of 7.5% interest per annum from the date of filing the petition till the date of realization, within a period of 8 weeks from the date of receipt of a copy of the order, less the amount if already deposited.



On such deposit being made, the claimants are permitted to withdraw their respective share as apportioned by the Tribunal. Since this Court is enhancing the compensation, the claimants are liable to pay the balance Court fee.

8. With these observations, this Civil Miscellaneous Appeal is partly allowed. No Costs.

22.02.2024

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

To

1. The Motor Accident Claims Tribunal / Principal District Judge,
Dindigul.

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



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S.SRIMATHY, J.

KSA

**Order made in
C.M.A(MD)No.1226 of 2022**

22.02.2024