



C.M.A.(MD) No.1322 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :23.10.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1322 of 2024

1.Pappathi

2.Rajeswari

3.Sasikumar

... Appellants

Vs.

1.B.Suresh

2.M/s.Rich Phytocare Private Limited,
Duly represented by its Managing Director,
Having Office at
No.15, 1-2, Taluk Office Road,
Opposite to R.M.T.C. Depot,
Bodynaickannoor, Theni District.

3.The Branch Manager,
Balaji Alliance General Insurance Company Limited,
Having its Branch Office at
2nd Floor, Kadhibavan,
No.108, T.P.K. Road, Madurai-625 001.

... Respondents

Prayer: Civil Miscellaneous Appeal under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation awarded in M.C.O.P.No.514 of 2011 by its fair and decretal order dated 26.03.2018 on the file of the Motor Accident Claims Tribunal / District Court, Karur.

For Appellants : Mr.S.R.Krish Aravind



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For R-1 : Mr.A.Haja Mohideen

For R-3 : Mr.J.S.Murali

J U D G M E N T

The claimants have preferred the above Civil Miscellaneous Appeal seeking enhancement.

2. Since the findings on negligence and liability are not under challenge, the facts leading to the filing of the claim petition are unnecessary for the disposal of the appeal.

3. The learned counsel appearing for the appellants submitted that though the claimants had established that the deceased was working as a milk vendor, the Tribunal had fixed a very low notional income of Rs. 10,000/- per annum and that the award of compensation under the loss of consortium at Rs.10,000/- is meagre and therefore, prayed for enhancement.

4. The learned counsel appearing for the second respondent per contra submitted that the award of the Tribunal is just and reasonable and



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hence, no interference is called for by this Court.

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5. The only point for consideration is whether the award of the Tribunal is just and reasonable.

6. The claimants had examined P.W.1 / the wife of the deceased, who had deposed that the deceased was doing milk vending business and he was also an agriculturist. However, no documents were produced either to prove the avocation or income of the deceased. Therefore, the notional income fixed by the Tribunal at Rs.10,000/- per annum is abysmally low. Considering the avocation and age of the deceased and considering the year of the accident, this Court is of the view that it is just and reasonable that an amount of Rs.5,000/- is fixed as notional income per month. Since the deceased was 65 years, the multiplier '7' has to be applied. Therefore, the compensation towards loss of income has to be $5000 \times 12 \times 7 = \text{Rs. } 4,20,000/-$. The compensation under the loss of consortium to the appellants at Rs.25,000, Rs.10,000 and Rs.10,000/- respectively is not in accordance with the guidelines laid down by the Hon'ble Supreme Court. Each of the three appellants are entitled to Rs.40,000/- towards loss of consortium and hence, the same is enhanced to Rs.1,20,000/- instead of



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Rs.45,000/- awarded by the Tribunal. Thus, the award under the other

heads are confirmed. Thus, the award enhanced is as follows:

<i>Sl. No</i>	<i>Description</i>	<i>Amount awarded by the Tribunal</i>	<i>Amount awarded by this Court</i>	<i>Award confirmed, enhanced or granted</i>
1	Loss of income	Rs.70,000/-	Rs.4,20,000/-	Enhanced
2	Loss of love, affection and consortium towards first appellant	Rs.25,000/-	Rs.40,000/-	Enhanced
3	Loss of love, affection and consortium towards second and third appellants	Rs.10,000/- * 2=Rs.20,000/- each	Rs.40,000/- * 2=Rs.80,000/-	Enhanced
3	Transport expenses	Rs.5,000/-	Rs.5,000/-	Confirmed
3	Funeral expenses	Rs.5,000/-	Rs.5,000/-	Confirmed
Total		Rs. 1,25,000/-	Rs.5,50,000/-	Enhanced by Rs.4,25,000/-

7. The third respondent/Insurance Company is directed to deposit the enhanced compensation amount of Rs.5,50,000/- (Rupees Five Lakhs and Fifty Thousand only) together with interest at 7.5% p.a., from the date of the claim petition till the date of realization (excluding the interest for the delay period of 1856 days) and proportionate costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order.



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8. On such deposit, the appellants 1 to 3/claimants are permitted to withdraw their share amount with interest and costs, as per the apportionment fixed by the Tribunal, less the amount already withdrawn, if any, by filing appropriate application before the Tribunal. The appellants/claimants are directed to pay the necessary Court Fee, if any, on the enhanced amount.

9. In the result, this Civil Miscellaneous Appeal is partly allowed.

No costs.

23.10.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
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SUNDER MOHAN, J.

TSG

To:

- 1.The Motor Accident Claims Tribunal / District Court, Karur.
- 2.The Branch Manager,
Balaji Alliance General Insurance Company Limited,
Having its Branch Office at
2nd Floor, Kadhibavan,
No.108, T.P.K. Road,
Madurai-625 001.
- 3.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

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