



C.M.A.No.2027 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2025

CORAM

THE HON'BLE Mr. JUSTICE R. SURESH KUMAR
AND
THE HON'BLE Dr. JUSTICE A.D.MARIA CLETE

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1.Muthulakshmi
2.Periyasamy

.. Appellants

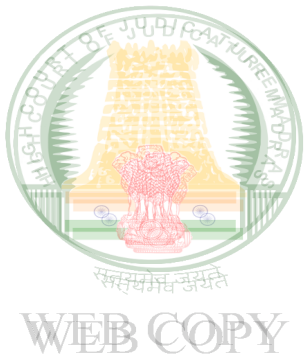
Vs.

1.KRS Project LLP, Survey No.263/4A
No.12, Thiruvettakudy Revenue Village Kottucherry
Commune Karaikal District
Pondicherry 609 609

2.The Manager
National Insurance Co. Ltd.
First Floor, KRT Building
No.33, Bharathidasan Salai
Promanade Road
Cantonment, Tiruchirapalli 620 001

.. Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, seeking to enhance the compensation awarded in the judgment and decree dated 19.04.2023 made in M.C.O.P.No.60 of 2020, on the file of the MACT/Principal District Court, Perambalur, with 9% interest and costs.



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For Appellants : Mr.Ma.Pa.Thangavel
1st Respondent : *Ex parte*
For 2nd Respondent : Ms.Rathna Thara

J U D G M E N T

(Delivered by R. SURESH KUMAR, J.)

Due to the accident that occurred on 07.02.2020, one Aarya, a 14 year old boy, who is the son of the appellants/claimants died. Insofar as the accident and the liability are concerned, there is no dispute and the 2nd respondent/ insurance company has also not filed any appeal against the order of the Tribunal *i.e.*, Motor Accidents Claims Tribunal/Principal District Court, Perambalur, dated 19.04.2023, made in M.C.O.P.No.60 of 2020.

2. However, the appellants/claimants have preferred this appeal for enhancement.

3. Before the Tribunal, a sum of Rs.50,00,000/- was sought for as compensation. Having considered the age and other aspects of the victim, the Tribunal has calculated the compensation in the following manner :

“8. According to the petitioners, they are claiming Rs.50,00,000/- compensation for the death of the deceased minor



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Aarya. The age of the deceased stated to be 15 years in the petition and the copy of the aadhaar card of the deceased shows the year of birth of the deceased as 2006. The accident took place on 07.02.2020. Therefore, this Tribunal fixes that at the time of accident the deceased minor child was aged about 14 years. As far as the minor deceased is concerned, the ratio laid down in Kishan Gopal and Another Vs. Lola [2013(2) TN MAC 358 (SC)] shall be followed. Therefore, this Tribunal fixed notional annual income of the child victim at Rs.30,000/- and the multiplier is 15.

The calculation :

Notional Annual Income	Rs.30,000/-
Applying multiplier 15	Rs.30,000 x 15 = Rs.4,50,000/-
Loss of dependency	Rs.4,50,000/-
Filial Consortium (2x40,000)	Rs.80,000/-
Funeral Expenses	Rs.15,000/-
Total	Rs.5,45,000/-

Therefore, the 2nd respondent is liable to pay a sum of Rs.5,45,000/- to the petitioners. The 1st petitioner is the mother and the 2nd petitioner is the father of the deceased is evidence from Ex.P4/L.Rs. certificate. Out of Rs.5,45,000/-, the 1st petitioner is entitled to Rs.3,45,000/- (mother) and the 2nd petitioner is entitled to Rs.2,00,000/- (father) as compensation and this point is answered as such.”

4. It is in this context, Mr.Ma.Pa.Thangavel, learned counsel appearing for the appellants/claimants would contend that the victim boy though was aged



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14 years at the time of accident, was a national level champion in Junior Level National Wushu Championship. He has produced a series of certificates which are Ex.P6 series marked before the Tribunal. These documents though marked before the Tribunal, the Tribunal has not taken into account these certificates by treating the victim as a National Level sports boy in future. Had he been alive, he would have achieved more.

5. Therefore, the learned counsel would contend that the notional annual income that has been fixed by the Tribunal at Rs.30,000/- on the basis of ***Kishan Gopal and Another Vs. Lola [2013(2) TN MAC 358 (SC)]*** which was the fixation made long years back, that too, based on the accident that had been taken place in the early 1990s, whereas, in the present case, the accident took place in the year 2020. Hence, there could be no rigid rule to fix notional annual income for minor, if he is a victim of a motor accident. Therefore, the learned counsel seeks indulgence of this Court to enhance the compensation mainly by enhancing the notional annual income fixed by the Tribunal.

6. We have heard Ms.Rathna Thara, learned counsel for the 2nd respondent/insurance company, who would submit that the Tribunal has not fixed the said notional annual income on its own interest. The Tribunal has



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fixed the said amount of Rs.30,000/- as notional annual income only on the basis of the law laid down by the Hon'ble Supreme Court in **Kishan Gopal's** case (*supra*). Assuming that the value of money has increased multiple times and by virtue of that, the earlier fixation cannot be rigid, so far as the quantum of compensation of notional annual income is concerned, it can be enhanced only to a moderate level as to be fixed by this Court based on the circumstances of the case. However, the compensation amount by way of enhancement to the extent of Rs.25,00,000/- as sought for by the appellants/claimants claim through this appeal cannot be accepted, she contended.

7. We have considered the rival submissions made by the learned counsel appearing for both sides and perused the materials placed before this Court.

8. As has been pointed out by the learned counsel appearing for the appellants/claimants, the fixation of notional annual income at Rs.30,000/-, of course, based on **Kishan Gopal's** case (*supra*), that would have been the amount fixed long years back, based on the then prevailing situation by taking into account the value of the money, however, after several years or some decades whether the same amount can be taken as notional annual income for the victim, who is a minor for calculating the whole compensation payable to the family members mainly the parents, is the question.



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9. In this context, it is further to be noted that the victim boy is a National Level champion in a particular sport event and he had been participating in various national events and certificates issued to that effect had been marked before the Tribunal as Ex.P6 series. Those certificates disclose that the victim was one of the smart sports boy and had he survived, in future, he would have achieved more with flying colours. Therefore, the loss of him to the family members, especially, the parents is an irreparable loss and therefore, the rigid fixation of Rs.30,000/- by way of notional annual income adopted by the Tribunal in the impugned order, in our considered view, requires some interference.

10. In that context, we feel that the notional annual income of Rs.30,000/- is to be enhanced and it is enhanced by another 100% *i.e.*, Rs.60,000/-. If that enhancement is made, that would be proper, in the present circumstances and scenario, based on the money value as well as the loss of the family. If adequate compensation is paid with notional annual income of Rs.60,000/- by adopting the multiplier, a suitable compensation can be awarded.

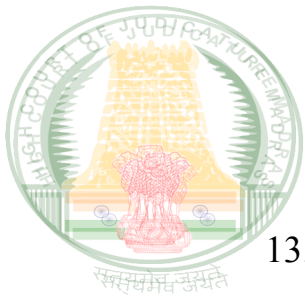


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11. That apart, as far as the victim boy is concerned, as we discussed herein above, he was a National Level Champion and such a sports person, cannot be equated with an ordinary boy and therefore, his loss to his parents would have been a major loss and had he been alive, he would have achieved still more. Therefore, taking note of these peculiar facts and the distinguished sportsmanship of the boy concerned who is the victim, we also do feel that apart from a sum of Rs.60,000/- of notional annual income to be fixed, an additional sum of Rs.10,000/- per year as special notional income can also be added.

12. If the sum of Rs.70,000/- (Rs.60,000/- + Rs.10,000/-) has been taken as notional annual income by adopting multiplier 15, ultimately, it would come to Rs.10,50,000/-. Therefore, in the said head, if a sum of Rs.10,50,000/- is awarded along with consortium of Rs.80,000/- and funeral expenses of Rs.15,000/-, which has already been awarded by the Tribunal, the total award amount comes to Rs.11,45,000/-, which could be a proper compensation payable to the victim's family, who are the appellants/claimants. Hence, we are inclined to modify the impugned award as follows:

<i>Loss of dependency</i>	<i>Rs.10,50,000/-</i>
<i>Consortium</i>	<i>Rs. 80,000/-</i>
<i>Funeral Expenses</i>	<i>Rs. 15,000/-</i>
<i>Total</i>	<i>Rs.11,45,000/-</i>



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13. It is brought to our notice that the 2nd respondent/insurance company had already deposited the award amount as awarded by the Tribunal and therefore, the remaining amount as per enhancement *i.e.*, **Rs.6,00,000/-** [Rs.11,45,000/- (-) Rs.5,45,000/-], shall be deposited by the 2nd respondent/insurance company within a period of two months from the date of receipt of a copy of this judgment and the said amount can be withdrawn by the appellants/claimants.

With these modifications, this Civil Miscellaneous Appeal is allowed.

No costs.

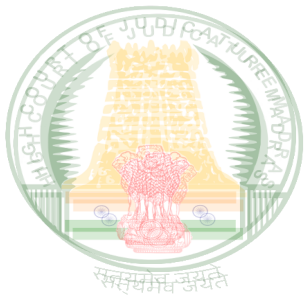
[R.S.K.,J.] [A.D.M.C., J.]
04.02.2025

Index : Yes / No
Neutral Citation : Yes/No
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The MACT/Principal District Court
Perambalur



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