



C.M.A.No.3019 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

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1. Vasantha
2. Minor Kalaiarasan
3. Minor Kannan
4. Minor Kasthuri
(Minors rep. by their Mother and 1st appellant, Vasantha)
5. Kanjamalai ...Appellants

Vs.

1. T.Thanuja Surendra
2. United India Insurance Co. Ltd.,
Micro Office, No.1672, 20th Cross,
Maranahalli Main Road, Vijaya Nagar,
Bangalore, Karnataka. ...Respondents

Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923 against the order dated 06.06.2016 made in W.C.No.161 of 2012 on the file of the Deputy Commissioner of Labour (Authority under the Workmen Compensation Act) Salem.

For Appellants : Mr.C.Munusamy

For Respondents : Mr.D.Bhaskaran, for R2
Notice dispensed with, for R1



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JUDGEMENT

WEB COPY Challenging the order passed by the Deputy Commissioner of Labour (Authority under the Workmen Compensation Act) Salem in W.C.No.161 of 2012 dated 06.06.2016, the applicants have filed the present appeal before this court.

2. It is the case of the appellants that, on 16.01.2011 at about 05.00 pm., as per the instruction of the 1st respondent, when the deceased Prakasam was driving the Santro Car bearing Regn.No.KA-03-ME-7738 owned by the 1st respondent insured with the 2nd respondent in the Thoppur-Mecheri road, as a mini bus came in a very high speed, in order to avoid collision, when the deceased Prakasam turned the car, the said car turned upside down, due to which, the said Prakasam sustained fatal injuries and succumbed to the same, leading to the registration of Crime No.26/2011. Thereby, the appellants filed a claim petition in W.C.No.161 of 2012, claiming a compensation of Rs.15,00,000/- before the Deputy Commissioner of Labour, Salem under the Workmen Compensation Act. After adjudication, the Deputy Commissioner passed the impugned order awarding a sum of Rs.5,62,523/- towards compensation for the death of the deceased Prakasam. Challenging the same, the appellants have come



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up with the present appeal.

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3. Learned counsel appearing for the appellants submitted that, though the deceased had earned more than sum of Rs.14,000/- per month, however, the Workmen Compensation Court had fixed the monthly income of the deceased at Rs.5,966/-, which is wholly unsustainable. Accordingly, he prays for allowing the appeal.

4. Per contra, the learned counsel appearing on behalf of the 2nd respondent/Insurance Company submitted that, no document has been filed before the Workmen Compensation Court in order to prove the income of the deceased and thereby, the Workmen Compensation Court fixed the monthly income of the deceased as Rs.5,966/- and awarded compensation, which is wholly sustainable and the same does not require any enhancement. Accordingly, he prays for dismissal of the appeal.

5. Heard learned counsel on either side and perused the materials available on record.



6. The facts with regard to the employment of the deceased under

the 1st respondent and the death of the deceased during the course of employment under the 1st respondent are not in dispute. The issue arises for consideration in this appeal is with regard to fixation of monthly income of the deceased?

7. Though the appellants claim that the deceased earned more than a sum of Rs.14,000/- per month and received salary from the 1st respondent-employer, however, the employer was set *ex-parte* and no document has been filed before the Workmen Compensation Court to prove the income of the deceased. In such circumstances, by following the government order issued by the Central Government dated 27.01.2014 in G.O.Ms.2(D) No.03, Labour and Employment Department, fixing the income as Rs.12,849/-, the Workmen Compensation Court ought to have fixed the income of the deceased at Rs.8,000/- as per Workmen Compensation Act, 4(1) Explanation (II). However, the Workmen Compensation Court, though had taken the correct factor, fixed the income of the deceased as Rs.5,966/- which is very meagre and the same has to necessarily be interfered with.



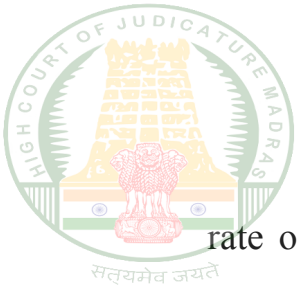
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8. In view of the above, this Court, by following the above said

Government order dated 27.01.2014, fixes the monthly income of the deceased as Rs.8,000/- and accordingly, the compensation awarded by the Workmen Compensation Court is modified as under :-

<i>Heads</i>	<i>Amount Awarded by the Workmen Compensation Court (Rs.)</i>	<i>Modified award amount (Rs.)</i>
Salary	5,966/-	8,000/-
Age of the deceased	39	39
Age factor	186.90	186.90
Compensation	$5966 * 50/100 * 186.90$ = 5,57,523/-	$8000 * 50/100 * 186.90$ = 7,47,600/-
Funeral expenses	5,000/-	5,000/-
Total	5,62,523/-	7,52,600/-

9. Accordingly, this Civil Miscellaneous Appeal stands allowed in part and the impugned award passed by the Deputy Commissioner of Labour in W.C.No.161 of 2012 is modified by enhancing the compensation amount from **Rs.5,62,523/-** to **Rs.7,52,600/-**. The 2nd respondent-insurance company is directed to deposit the entire award amount to the credit of W.C.No.161 of 2012 along with interest at the



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rate of 12% per annum from the date of claim petition till the date of deposit and costs as awarded by the Deputy Commissioner of Labour, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. In the above compensation arrived at by this Court, the 1st appellant is entitled to a sum of Rs.2,00,000/-, the appellants 2 to 4 are entitled to a sum of Rs.1,50,000/- each and the 5th appellant is entitled to a sum of Rs.1,02,600/- with proportionate interest and costs. On such deposit being made, the Tribunal is directed to transfer the compensation amount apportioned in respect of the major appellants 1 and 5 directly to their bank accounts through RTGS within a period of two (2) weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. Insofar as the apportionment of compensation in favour of the minor appellants 2 to 4 is concerned, the Workmen Compensation Court is directed to invest the same in an interest bearing fixed deposit initially for a period of three years to be renewed till they attain majority and the quarterly interest accrued thereon shall be paid to the 1st appellant / mother of the minor appellants for being used for the



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welfare of the minors by the guardian. It is made clear that the appellants

are not entitled to any interest for the default period, if any. There shall be

no order as to costs in this appeal.

30.01.2025

skt

Index : Yes / No
Speaking order : Yes / No
NCC : Yes / No

To

The Deputy Commissioner of Labour
(Authority under the Workmen Compensation Act),
Salem.



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M.DHANDAPANI, J.

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