



C.M.A(MD)No.853 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.12.2024

CORAM

THE HONOURABLE MRS.JUSTICE R. KALAIMATHI

C.M.A(MD)No.853 of 2023

1.Kadarkarai
2.Panchavarnam
3.Muthukumar
4.Murugaraja

... Appellants/Petitioners

-Vs-

1.Arulraj
2.Royal Sundaram Alliance Insurance Co., Ltd.,
Through its Branch Manager,
No.176D & E, Trivandrum Road,
Vannarapettai,
Tirunelveli-627 003.

...Respondents/Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 29.10.2021 passed in MCOP No.1797 of 2018 on the file of the Motor Accident Claims Tribunal, Special Sub-Court dealing with MCOP Cases, Tirunelveli, to allow this appeal and to enhance the award amount.

For Appellant	: Mr.T.Selvakumarn
For R1	: No appearance
For R2	: Mr.S.Srinivasaraghavan



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J U D G M E N T

Not being satisfied with the award dated 29.10.2021 made in MCOP No.1797 of 2018 on the file of the MACT/Special Court, dealing with MCOP Cases, Tirunelveli, the claimants herein have preferred this Civil Miscellaneous Appeal for enhancement of compensation.

2.Despite the receipt of notice, the first respondent neither appeared nor represented through his Counsel.

3.Heard the arguments of the learned counsel for the appellants/claimants and the learned counsel for the second respondent/Insurance Company.

4.Upon consideration, the Tribunal fixed notional income of the appellant at Rs.7,500/- by adding 40% of future prospects and by deducting ½ as personal expenses of the deceased, granted a sum of Rs.11,34,000/- for loss of dependency. For loss of consortium, an amount of Rs.40,000/-, for loss of estate and for funeral expenses, an amount of



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Rs.15,000/- each under the head was granted. In all, a sum of Rs. 12,04,000/- was granted by the Tribunal for compensation.

5.The learned counsel for the appellants would strenuously argue that the notional income fixed by the Tribunal for the deceased at Rs.14,000/ is less. For loss of consortium, no amount was granted to the claimants No.2 to 4.

6.It is the evidence of P.W.1 that the deceased was aged about 21 years and he was working as two wheeler mechanic and earning Rs.20,000/ per month. As per the available document viz., Ex.P.2/Post mortem Certificate, age of the deceased is fixed as 22 years is not found fault with. The date of the accident is 16.03.2018. Though no document was filed to substantiate the avocation of the deceased, in consideration of the above said details, this Court deems it fit to fix the income of the deceased at Rs.13,000/- per month.



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7.The Hon'ble Supreme Court has standardized the details of the future prospects while computing the monthly income in ***National Insurance Company Vs Pranay Sethi and others***, reported in ***2017(2)TNMAC 609(SC)***. For the persons below 40 years 40% has to be added. In order to fix his age the only available record is Ex.P.2- Post-mortem Certificate and relying upon the same, the Tribunal has fixed his age at 22 years cannot be found fault with. As held in ***Sarala Varma and others Vs Delhi Transport Corporation and another***, reported in ***2009(2)TNMAC 1***, the relevant multiplier to be selected is '18'. As the deceased was a bachelor, 50% has to be deducted for personal expenses. Based on the aforesaid details, for calculating loss of dependency, following formula emerges. The loss of dependency is arrived at Rs.19,65,600/-(Rs. 13,000 + 40/100 x 12 x 18m x 50/100).

8.The claimants No.1 and 2 are the parents of the deceased and the claimants 3 and 4 are the elder brothers of the deceased. The Tribunal has granted Rs.40,000/- for filial consortium to the parents. As per the law laid down by the Hon'ble Apex Court in ***Magma General Insurance Co.***



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Ltd vs Nanu Ram Alias Chuhru Ram reported in **2018 AIR SC 1249**, the elder brothers of the deceased are also entitled for loss of consortium of Rs.40,000/- each, thereby an amount of Rs.1,20,000/-(40,000 + 80,000 = 1,20,000) is awarded towards loss of consortium. The compensation awarded by the Tribunal is reworked and tabulated hereunder:

S. No	Description	Amount awarded by Tribunal	Amount awarded by this Court	Award confirmed or enhanced or granted or reduced
1	For Loss of dependency	Rs.11,34,000/-	Rs.19,65,600/-	Enhanced
2	For Loss of Consortium	Rs.40,000/-	Rs.1,20,000/-	Enhanced
3	For Loss of Estate	Rs.15,000/-	Rs.15,000/-	Confirmed
4	For Funeral Expenses	Rs.15,000/-	Rs.15,000/-	Confirmed
	Total	Rs.12,04,000/-	Rs.21,15,600/-	Enhanced by Rs.9,11,600/-

Out of Rs.21,15,600/-, a sum of Rs.91,160/- shall be deducted towards income tax and after deduction, the compensation is arrived at Rs.20,24,440/-.

9. In the result,

(i) The Civil Miscellaneous Appeal stands allowed.



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(ii) The compensation awarded by the Tribunal is enhanced from Rs.12,04,000/- to Rs.20,24,440/-.

(iii) The Insurance Company/second respondent is directed to deposit the enhanced compensation amount i.e., Rs.20,24,440/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.1797 of 2018 on the file of Motor Accidents Claims Tribunal /Special Sub Court Dealing with MCOP Cases, Tirunelveli, within a period of eight (8) weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the first appellant and the second appellant are entitled to Rs.9,62,220/- each with accrued interests, the third and the fourth appellants are entitled to Rs.50,000/- each with accrued interests, after adjusting the amount, if any already withdrawn, by filing necessary application before the Tribunal.

(v) The appellants/claimants are directed to pay the Court fee for the enhanced compensation amount, if required.



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(vi) The Tribunal shall disburse the amount upon production of the certified copy showing proof of payment of Court fee by the claimant.

(vii) No costs.

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NCC:Yes/No

Index:Yes/No

Internet::Yes/No

To

The Motor Accident Claims Tribunal

Special Sub-Court dealing with MCOP Cases,

Tirunelveli.



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R. KALAIMATHI,J.

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