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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1357 of 2024

1.Pushpa

2.Minor.Banumathi

3.Kali

..Appellants

.vs.

1.Dharmalingam

2.MAGMA HDI General Insurance Co., Ltd.,
Navins Presidium, 3rd Floor,
No.17/19, Block 3A,
Nelson Manickam Road,
Chennai.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order made in MCOP No.1651 of 2019, dated 01.06.2022, on the file of the Motor Accident Claims Tribunal, Special District Court, Salem.

For Appellants : Mr.M.Fazil Perarivalan for
Mr.M.Mohamed Riyaz

For Respondents : Mr.B.Murugavel for R2



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JUDGMENT

The claimants not being satisfied with the compensation fixed by the Tribunal in MCOP No.1651 of 2019, dated 01.06.2022 have filed this appeal seeking for enhancement of compensation.

2.The claimants who are the wife, minor daughters and father of the deceased Suresh filed the claim petition on the ground that the deceased Suresh was riding his two wheeler on 22.02.2019 at K.Morur-Bommidy road and at about 7.30 p.m., when the vehicle came near the place of occurrence, the offending vehicle which is a tipper lorry was driven in a rash and negligent manner and had hit the two wheeler. As a result of which, the deceased was thrown out of the vehicle and he died on the spot. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of driver of the offending vehicle. Having rendered such a finding, the Tribunal



had fixed the total compensation at Rs.14,85,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income (Rs.10,000 x 12 x 17 = Rs.20,40,000 – 1/3 (6,80,000))	13,60,000
2.	Loss of love and affection (20,000 x3)	60,000
3.	Loss of Consortium	40,000
4.	Funeral Expenses	25,000
	Total	14,85,000

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal have filed the present appeal before this Court seeking for enhancement of compensation.



6. Heard Mr.M.Fazil Perarivalan, learned counsel appearing on behalf of the appellants and Mr.B.Murugavel, learned counsel appearing on behalf of the 2nd respondent.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.

8.The main ground that was urged before this Court pertains to the notional monthly income that was fixed by the Tribunal. The claimants came up with a case that the deceased was an agricultural coolie and he was earning a sum of Rs.20,000/- per month. There was no evidence available before the Tribunal to substantiate the avocation of the deceased and the monthly income earned by the deceased. Therefore, the Tribunal proceeded to fix the notional monthly income at Rs.10,000/- including future prospects.

9.In the considered view of this Court, the accident had taken place in the year 2019 and the notional monthly income fixed by the Tribunal is on the lower side. Hence, this Court is inclined to enhance the notional monthly income to Rs.12,500/- and add 40% towards future prospects. Thus, the compensation under the head of loss of income is calculated as follows:



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Monthly Income	:	Rs. 12,500/-
Add: Future Prospects 40% of Rs.12,500/-	:	Rs. 5,000/- ----- Rs. 17,500/-
Less 1/3 rd Deduction of Rs.17,500/-	:	Rs. 5,833/-
After deduction Annual Income of the deceased (17500 – 5833 = 11,666 * 12)	:	Rs. 1,39,992/-
Multiplier	:	x 17 -----
Loss of income/dependency	:	Rs.23,79,864/- -----
Rounded Off	:	Rs.23,80,000 -----

10.The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

11.In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income (Rs.17,500 x 12 x 17 = Rs.35,70,000 – 1/3 (11,90,000))	23,80,000
2.	Loss of love and affection (20,000 x3)	60,000
3.	Loss of Consortium	40,000
4.	Funeral Expenses	25,000
	Total	25,05,000

12.The compensation awarded by the tribunal at Rs.14,85,000/- is enhanced to Rs.25,05,000/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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13. In the result, these Civil Miscellaneous Appeals are partly allowed. No costs.

20.06.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

The Motor Accident Claims Tribunal, Special District Court, Salem.



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N. ANAND VENKATESH., J

SSR

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