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Civil Miscellaneous Appeal No.1538 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1538 of 2024

Dhanalakshmi
W/o.Gopi

... Appellant

Vs.

1.G.M.Iyyappan
S/o.Murugesan
(since R1 remained *ex parte* before the Tribunal
his presence may be dispensed with)

2.The Manager,
United India Insurance Company Limited,
Silingi Building, 4th Floor,
No.134, Greams Road, Chennai - 600 006.

3.Muniyammal
W/o.Late Kanniyappan

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 20.02.2023 made in M.C.O.P.No.4064 of 2017 on the file of Motor Accident Claims Tribunal, II Court of Small Causes, Chennai.



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For Appellants : Ms.N.Lavanya
for Mr.M.Malar

For Respondents : Mr.K.Swaminathan [R2]

JUDGMENT

The appellant/claimant, who is the wife of the deceased Gopi, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai, in M.C.O.P.No.4064 of 2017, dated 20.02.2023, has filed this appeal.

2. The deceased Gopi was travelling as a pillion rider in a two wheeler on 21.05.2017 at R.K.Pet - Pallipet Road and at about 20.15 hours, when the two wheeler reached near a bus stop, the offending vehicle, a lorry, was driven in a rash and negligent manner and it came from the opposite direction and it dashed on the two wheeler. The deceased was thrown out of the vehicle and he sustained grievous injuries. He succumbed to the injuries on 27.02.2017. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.



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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 the driver of the offending vehicle. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.19,13,000/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	17,92,000/-
2.	Loss of consortium	88,000/-
3.	Loss of estate	16,500/-
4.	Funeral expenses	16,500/-
	Total	19,13,000/-

The above compensation was directed to be paid along with interest at 7.5% p.a.

4. The claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal seeking compensation.



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5. Heard Ms.N.Lavanya, learned counsel for appellant/claimant and Mr.K.Swaminathan, learned counsel for second respondent insurance company.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.

8. The main ground urged by learned counsel for appellants is with regard to the notional monthly income fixed by the Tribunal at Rs.10,000/- while calculating the compensation under the head 'loss of dependency'. The deceased, in this case, was aged about 35 years and the claimant came up with a case that the deceased was carrying on with the occupation as a coolie and he was earning a sum of Rs.700/- per day. There was no evidence before the Tribunal regarding the avocation of the deceased or the daily wages/monthly income earned by him. Therefore,



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the Tribunal proceeded to fix the notional monthly income at Rs.10,000/- and 40% was added towards future prospects. Considering the fact that the accident had taken place in the year 2017, this Court is inclined to fix the notional monthly income at Rs.13,000/- and 40% can be added towards future prospects. Thus, the compensation under the head 'loss of income/dependency' is calculated as follows:

Monthly Income	:	Rs. 13,000/-
Add: Future Prospects 40% of Rs.13,000/-	:	Rs. 5,200/- ----- Rs. 18,200/-
Annual Income (18,200 * 12)	:	Rs. 2,18,400/-
Less : Personal expenses Rs.2,18,400/- * 1/3	:	Rs. 72,800/- ----- Rs. 1,45,600/-
Multiplier	:	x 16 -----
Loss of income/dependency	:	Rs.23,29,600/- -----

9. The compensation granted under the other heads is justified and does not require the interference of this Court.



<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of dependency	17,92,000/-	23,29,600/-
2.	Loss of consortium	88,000/-	88,000/-
3.	Loss of estate	16,500/-	16,500/-
4.	Funeral expenses	16,500/-	16,500/-
	Total	19,13,000/-	24,50,600/-

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concerned, the deficit court fee, if not paid, shall be paid by the appellant.

The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

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Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
II Court of Small Causes,
Chennai.



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N.ANAND VENKATESH, J.

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