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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1755 of 2024

1.Sumathi

2.Swamikannu

3.Bakkiyalakshmi

4.Bakkiyaraj

... Appellants

.VS.

1.K.Sunderraj

2.S.Geetha

3.Cholamandalam Ms General Insurance Company Ltd.,
T.P.Cell No.154, Shaw Wallace Building,
2nd Floor, Thambu Chetty Street, Parrys,
Chennai – 1.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 26.04.2022 made in MACTOP No.1836 of 2018 on the file of Motor Accident Claims Tribunal, (Special Sub Court No.2, Motor Accident Claims Petitions) Small Causes Court, Chennai.



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For Appellant : Mr.V.Velu
For Respondents : Ms.R.Sreevidhya for R3

JUDGMENT

The claimants who are the parents, sister and brother of the deceased Balaji not being satisfied with the quantum of compensation awarded by the Tribunal in MACTOP No.1836 of 2018, dated 26.04.2022, have filed this appeal seeking for enhancement of compensation.

2.The case of the claimants is that the deceased Balaji was riding a two wheeler on 13.01.2018 at Chithamoor-Maduranthakam Road and at about 15.00 hours, when the vehicle came near the RTO office at Kadaperi, the offending vehicle which was an Auto was coming in the opposite direction was and it driven in a rash and negligent manner and it dashed on the two wheeler. As a result, the deceased sustained grievous injuries and he died on the way to the hospital. 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 the driver of the offending vehicle. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.16,80,800/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Total loss of Dependency	15,70,800
2.	Loss of Consortium	80,000
3.	Loss of Estate	15,000
4.	Funeral Expenses	15,000
		16,80,800

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 has filed the present appeal before this Court seeking for enhancement of compensation.

6.Heard Mr.V.Velu, learned counsel appearing on behalf of the appellant and Ms.R.Sreevidhya, learned counsel appearing on behalf of the 3rd respondent.



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

8. The main issue that was raised by the learned counsel for the appellant is with regard to the notional monthly income that was fixed by the Tribunal. The claimants came up with a case that the deceased was working as a security and as a part time driver and he was earning a sum of Rs.20,000/- per month. There is no proof regarding the avocation or the monthly income of the deceased. The Tribunal has fixed only a sum of Rs.11,000/- as notional monthly income. Considering the fact that the accident had taken place in the year 2018, this Court is inclined to fix the notional monthly income at Rs.13,500/-. 40% can be added towards future prospects. Thus, the compensation under the head of loss of dependency/income is calculated as follows:

$$\text{Rs.}18,900 \times 12 \times 17 \times 1/2 = \text{Rs.}19,27,800/-$$

9. The Tribunal has only granted a sum of Rs.80,000/- under the head of loss of consortium. Considering the fact that there were four claimants in this case, this Court is inclined to increase the compensation under the head of loss of love and affection to Rs.1,20,000/-.



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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 awarded by the tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Total loss of Dependency	19,27,800
2.	Loss of love and affection	1,20,000
3.	Loss of Estate	15,000
4.	Funeral Expenses	15,000
		20,77,800

12. The compensation awarded by the tribunal at Rs.16,80,800/- is enhanced to Rs.20,77,800/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.20,77,800/-, 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 of



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N. ANAND VENKATESH., J

ssr

Rs.3,97,000/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay period of 311 days as was ordered by this Court in C.M.P.No.774 of 2024, dated 12.06.2024. 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.

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

23.07.2024

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

To

The Motor Accident Claims Tribunal,
(Special Sub Court No.2, Motor Accident Claims Petitions)
Small Causes Court, Chennai.

CMA No.1755 of 2024