



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.988 of 2024

1.P.Parvathi
W/o.late K.Pothuraja

2.P.Logeshwaran (minor)
S/o. late K.Pothuraja

3.P.Haripriya (minor)
D/o. late K.Pothuraja

4.K.Chilambayi
W/o. Late Kanuppaiya

..Appellants

.VS.

1.R.Guhan
(Was set ex parte in the Trial Court)

2.Oriental Insurance Co., Ltd.,
Motor Third Party Claims – HUB
No.216, Prakasam Salai
Broadway
Chennai 600 108.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.06.2023 passed in MCOP No.611 of 2021, on the file of the Motor Accident Claims Tribunal , chief Judge, Court of Small Cause, Chennai.



For Respondents : Mr.S.Senthil Kumar for R2

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JUDGMENT

The claimants who are the wife, two minor children and mother of the deceased Pothuraja have filed this appeal, not being satisfied with the quantum of compensation fixed by the Tribunal in M.C.O.P.No.611 of 2021, dated 30.6.2023.

2.The case of the claimants is that the deceased Pothuraja was riding his two wheeler on 17.12.2020 in Madurai-Trichy National Highways and at about 11.15 hours when the vehicle reached near centre median at a junction, the offending vehicle which was also a two wheeler was driven in a rash and negligent manner and hit the two wheeler driven by the deceased as a result the deceased was thrown away from the vehicle and he sustained grievous injuries and he died in 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 offending vehicle. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.17,65,000/- under various heads as follows:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Towards Loss of Income/Dependency Rs.12,500/- * 12 * 14 * 3/4	15,75,000/-
2.	Towards Loss of Estate	15,000/-
3.	Towards Loss of Consortium Rs.40000/- (each) x 4	1,60,000/-
4.	Towards Funeral Expenses	15,000/-
	Total	17,65,000/-

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

5.Heard Mr.S.Elango, learned counsel appearing on behalf of the appellants and Mr.S.Senthil Kumar, learned counsel appearing on behalf of the 2nd respondent.

6.This Court has carefully considered the submissions made on either side and the materials available on record. This Court also carefully went through the award passed by the Tribunal.

7.The main ground raised by the learned counsel for the appellants pertains to the notional monthly income fixed by the Tribunal. The claimants came up with a



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case that the deceased was a mason who was earning a monthly income of Rs.35,000/-. No materials were placed before the Tribunal to prove the avocation and the monthly income earned by the deceased. Therefore, the Tribunal fixed the notional monthly income at Rs.10,000/- and added 25% [10,000 + 2,500 = 12,500/-] towards future prospects since the age of the deceased was 41 years.

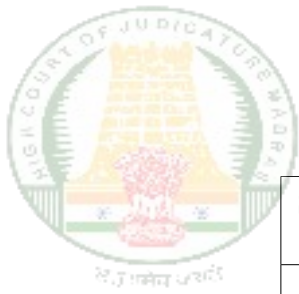
8.In the considered view of this Court, the notional monthly income that was fixed by the Tribunal is on the lower side since this accident had taken place in the year 2020, this Court is inclined to increase the notional monthly income to Rs.13,500/-. If the future prospects of 25% is added to the notional monthly and thus, the compensation towards loss of income is calculated as follows :

$$[13,500/- + 3375 = \text{Rs.}16,875/- \times 12 \times 14 \times 3/4 = \text{Rs.}21,26,250/-]$$

9.The compensation fixed under the other heads are reasonable and does not require the interference of this Court.

10.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.	Towards Loss of Income/Dependency	21,26,250/-



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S.No	Compensation awarded under the head	Amount (in Rs.)
	[Rs.16,875/- x 12 x 14 x 3/4]	
2.	Towards Loss of Estate	15,000/-
3.	Towards Loss of Consortium Rs.40000/- (each) x 4	1,60,000/-
4.	Towards Funeral Expenses	15,000/-
	Total	23,16,250/-

11.The compensation awarded by the tribunal at Rs. 17,65,000/- is enhanced to Rs.23,16,250/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.5,51,250/- 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 judgement. 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.

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

20.06.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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N. ANAND VENKATESH., J

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To
Motor Accident Claims Tribunal
Chief Judge
Court of Small Cause, Chennai.

CMA No.988 of 2024

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