



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.714 of 2024

1.Sampoornam

2.Thulasimani

3.Minor Boomathi

4.Pappathi

..Appellants

.VS.

1.Annadurai

2.Manjula

3.IFFC TOKIO General Insurance Co.,Ltd
138/2, II nd Floor, LMR Shopping Arcade
Opp: LGM Theatre, Namakkal-637 001.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Decree and Judgment in MCOP No.30 of 2019, dated 6.4.2023, on the file of the Motor Accident Claims Tribunal/Subordinate Judge Court, Tiruchengode.

For Appellants : Mr.T.S.Arthanareeswaran

For Respondents : Mr.B.Sivakollappan
for R3

JUDGMENT

The claimants not being satisfied with the quantum of compensation awarded by the Tribunal in M.C.O.P.No.30 of 2019, dated 06.04.2023, have filed the present appeal seeking for enhancement of compensation.



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2.The claimants are the wife, two daughters and mother of the deceased Balan. On 16.6.2018, the deceased was riding a bicycle at Tiruchengodu – Rasipuram Main Road and at about 8.30 Am, when the cycle approached the place of occurrence, the offending vehicle which is a two wheeler was driven in a rash and negligent manner and it dashed on the cycle and as a result of which, the deceased was thrown out of the cycle and he sustained grievous injuries and unfortunately he succumbed to the injuries. An FIR came to be registered in Crime No.201 of 2018. 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 belonging to the 1st respondent. Having rendered such a finding, the Tribunal proceeded to determine the total compensation at Rs.7,46,000/- in the following manner:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of dependency	6,68,196/-
2.	Loss of Estate	16,500/-
3.	Funeral Expenses	16,500/-
4.	Love and affection	44,000/-
		7,45,196/-
	Total	7,46,000/-



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4.The above compensation was directed to be paid with interest at the rate of 7% p.a. The claimants not being satisfied with the quantum of compensation awarded by the Tribunal, have filed the present appeal seeking for enhancement of compensation.

5.Heard Mr.T.S.Arthanareeswaran, learned counsel for the appellants and Mr.B.Sivakollappan, learned counsel for R3.

6.The main ground that was urged by the learned counsel for the appellants was that the deceased was a machine operator during the relevant point of time and this accident had taken place during the year 2018 and the deceased was earning a sum of Rs.15,000/- pm., and whereas, the Tribunal had fixed the notional monthly income at Rs.7,500/- and added 10% towards future prospects and thus determined the notional monthly income at Rs.8,250/- [7,500+750 = 8,250/-]. It was contended that this amount fixed by the Tribunal is on the lower side. The learned counsel further submitted that claimants 2 to 4 have not been granted any compensation under the head of loss of love and affection.

7.Per contra, the learned counsel for the respondent Insurance Company submitted that there is absolutely no proof for claiming monthly income of Rs.15,000/- and the Tribunal considering the fact that the claimant was aged about 58 years and the accident had taken place in the year 2018, had rightly fixed the monthly income at Rs.7,500/-. The learned counsel submitted that a reasonable compensation has been fixed in this case and



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there is no ground to interfere with the same and consequently, the learned counsel sought for the dismissal of the appeal.

8. 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 that was passed by the Tribunal and the reasons assigned therein.

9. The deceased at the time of his demise was aged about 58 years. It was claimed that he was working as machine operator in a PVC Company and he was getting monthly salary of Rs.15,000/- pm. There was no proof to substantiate this stand taken by the claimants. Hence, the Tribunal had fixed the notional monthly income at Rs.7,500/-. The short issue is as to whether this monthly income fixed by the Tribunal is reasonable.

10. The deceased was taking care of his wife, two children and his mother and was aged about 58 years. There was no proof regarding the income earned by the deceased. However, considering the cost of living and the price index prevailing during the relevant point of time, this Court finds that the sum of Rs.7,500/- fixed by the Tribunal is definitely on the lower side. This Court is inclined to fix the notional monthly income at Rs.12,500/-. If 10% is added towards future prospects, it works out to a sum of Rs.13,750/- [12500/- + Rs.1250/-]. This Court is inclined to fix this amount as the notional monthly income. Thus, the compensation under the head 'loss of income' is calculated as follows:



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Monthly Income	:	Rs. 12,500/-
Add: Future Prospects 10% of Rs.12,500/-	:	Rs. 1,250/- ----- Rs. 13,750/-
Annual Income (13,750 * 12)	:	Rs. 1,65,000/-
Less : Personal expenses Rs.1,65,000/- * 1/4	:	Rs. 41,250/- ----- Rs. 1,23,750/-
Multiplier	:	x 9
Loss of income/dependency	:	Rs.11,13,750/- -----

11.The Tribunal has only granted loss of consortium to the wife and no amount has been given to claimants 2 to 4 towards loss of love and affection. This Court is inclined to fix a sum of Rs.40,000/- to each of the claimants 2 to 4.

12.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 dependency	11,13,750/-
2.	Loss of Estate	16,500/-
3.	Funeral Expenses	16,500/-
4.	Love and affection	1,20,000/-
5.	Consortium for wife	44,000/-
	Total	13,10,750/-



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13.The compensation awarded by the tribunal at Rs.7,46,000/- is enhanced to Rs.13,10,750/-. The third 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 judgement. Insofar as the enhanced compensation of Rs.5,64,750/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay period of 113 days as was ordered by this Court in C.M.P.No.714 of 2024, dated 07.03.2024. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

14.This Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

06.06.2024

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

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