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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.667 of 2024

1.M.Umamaheswari

2.V.Ramachandran

3.R.Lalitha

..Appellants

.vs.

1.M.Pradeepkumar

2.Divisional Manager

The New India Assurance Co., Ltd.,

Do No.179, JN Street, (III Floor)

Puducherry – 605 001.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and Decree in MCOP No.2747 of 2017, dated 08.09.2023 on the file of the Motor Accident Claims Tribunal/(No.II Special District Court – Cuddalore).

For Appellant : Ms.Ramya V. Rao

For Respondents : Mr.J.Chandran for R2



JUDGMENT

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The claimants who are the wife and parents of the deceased, not being satisfied with the quantum of compensation fixed by the Tribunal have filed this appeal seeking for enhancement of compensation against the Award passed by the Motor Accident Claims Tribunal/No.II, Special District Court, Cuddalore in MCOP.No.2747 of 2017, dated 08.09.2023.

2.The case of the claimants is that the deceased was riding a two wheeler with a pillion rider on 17.04.2017 and when the vehicle was nearing Varakkalpattu bus stand in Cuddalore to Nellikuppam main road, the offending vehicle owned by the 1st respondent was driven in a rash and negligent manner and as a result of which, it dashed the two wheeler and as a result, the deceased sustained grievous injuries and succumbed to the injuries. It is under these circumstances, the claim petition came to be filed by the wife and parents of the deceased.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of the 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 bus belonging to the 1st respondent. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.25,76,700/- in the following

manner:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income	26,88,000
2.	Loss of Spousal consortium to 1 st claimant	44,000
3.	Loss of filial consortium to 2 and claimants	88,000
4.	Funeral expenses and loss of estate	33,000
5.	Transport Expenses	10,000
Total Amount		28,63,000
Deduct 10% of award amount for contributory negligence		2,86,300
Loss of Income		25,76,700

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

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

6.Heard Ms.Ramya V. Rao, learned counsel appearing on behalf of the appellants and Mr.J.Chandran, learned counsel appearing on behalf of the 2nd respondent.

7.This Court has carefully considered the submissions made on either side and



the materials available on record.

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8. On carefully going through the Award it is seen that the Tribunal has fixed reasonable compensation under all the heads and the only head which requires some tinkering by this Court is under the head of 'Loss of income'. The deceased in this case was a lorry driver and he was aged about 33 years at the time of the accident. He died leaving behind his wife and his parents. The accident had taken place in the year 2017. The Tribunal had fixed the notional monthly income at Rs.15,000/- and added 40% towards future prospects. Thereby, the total notional monthly income was fixed at Rs.21,000/- (Rs.15,000/- + Rs.6000/-). Considering the avocation of the deceased and the year in which the accident had taken place, this Court is inclined to increase the monthly notional income from Rs.15,000/- to Rs.16,000/-. If 40% future prospects is added to this notional monthly income, it works out to a sum of Rs.22,400/-.

9. Considering this notional monthly income, the total amount under the head of 'Loss of Income' comes to Rs.28,67,200/-. $(Rs.16,000/- + 40\% \times 12 \times 16 - 1/3)$

10. This Court is not inclined to interfere with the compensation that has been fixed under the other heads.



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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.	Loss of Income	28,67,200
2.	Loss of Spousal consortium to 1 st claimant	44,000
3.	Loss of filial consortium to 2 and claimants	88,000
4.	Funeral expenses and loss of estate	33,000
5.	Transport Expenses	10,000
Total Amount		30,42,200
Deduct 10% of award amount for contributory negligence		3,04,220
Loss of Income		27,37,980
Rounded off		27,38,000

12. The compensation awarded by the tribunal at Rs.25,76,700/- is enhanced to Rs.27,38,000/-. 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. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



N. ANAND VENKATESH., J

ssr

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

22.04.2024

Index : Yes/No

Speaking Order/Non-Speaking Order

Neutral citation : Yes/No

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To

The Motor Accident Claims Tribunal/(No.II Special District Court – Cuddalore).

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