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C.M.A.No.682 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.682 of 2024

1.Govindammal
2.Kempan

...Appellant

Vs

1.B.Sanjai
2.M/s.IFFCO TOKIO General Insurance Company Limited,
Rep by its Manager Registered Office at
IFFCO Sadan, CI District Campus, Sukur,
New Delhi 110017, Local Office at GSN,
Arcade, 2nd Floor, Hosur 635 109.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount made in Judgement and decree dated 05.08.2023 made in MCOP.No.870 of 2022 on the file of the Motor Accident Claims Tribunal and Special District Court, Krishnagiri by allowing this Civil Miscellaneous Appeal.

For Appellant : Mr.S.P.Yuvaraj

For Respondent : Mr.J.Micheal Visuvasam, for R2



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JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgment and decree dated 05.08.2023 made in MCOP.No.870 of 2022.

2. The learned counsel for the claimant would submit that on 29.05.2022 at about 20.20 hours, when one Vino was speaking/discussing with his brother and friend on the extreme left side of the Basavannankoil to Bargur Road, a Honda Dio Motor Cycle bearing Registration No.TN-24-AS-7120 came in a rash and negligent manner and dashed against the said Vino, due to which he had sustained grievous injuries. For the said injuries, he was treated in Government Medical College Hospital, Dharmapuri. In spite of the said treatment, he was died on 01.06.2022. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Dependency	18,14,400
2	Loss of Estate	16,500
3	Funeral Expenses	16,500
4	Loss of Consortium	88,000
	Total	19,35,400



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3. Further, he would submit that the only issue involved in the present appeal is with regard to the fixation of notional income by the Tribunal. The accident was occurred in the year 2022 and at the time of accident, the deceased was aged about 22 years and was studying M.Sc. However, without considering the same, the Tribunal had only fixed the notional income of the deceased as a sum of Rs.12,000/-, which is too low. Hence, he requests this Court to fix a sum of Rs.16,000/- as notional income of the deceased.

4. In reply, the learned counsel for the respondent would submit that the amount awarded by the Tribunal is just and fair and hence, he requests this Court to confirm the same.

5. Heard the learned counsel for the appellant and the respondents and also perused the documents available on records.

6. In the present case, the accident was occurred in the year 2022. At the time of accident, the deceased was aged about 22 years and was studying M.Sc.



When such being the case, the notional income of a sum of Rs.12,000/- fixed by the Tribunal appears to be on the lower side and hence, the same is enhanced to a sum of Rs.15,000/-. Therefore, by adding 40% towards future prospects and deducting 50% towards personal expenses and by applying 18 as multiplier, the loss of income would be calculated as follows:

$$\begin{aligned} & \text{Rs.15,000/- (notional income) + Rs.6,000/- (40\% future prospects)} \\ & * 12 \text{ (months)} * 18 \text{ (multiplier)} * (1/2) \text{ (deduction towards personal expenses)} \\ & = \text{Rs.22,68,000/-} \end{aligned}$$

7. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Dependency	18,14,400	22,68,000
2	Loss of Estate	16,500	16,500
3	Funeral Expenses	16,500	16,500
4	Loss of Consortium	88,000	88,000
	Total	19,35,400	23,89,000

8. Therefore, the amount awarded by the Tribunal is modified as a sum of



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Rs.23,89,000/-. Accordingly, the award amount stands increased from a sum of Rs.19,35,400/- to Rs.23,89,000/-. In all other aspects, the award of the Tribunal stands confirmed. It is also made clear that the compensation will be awarded to the claimants in the following proportions:

- i) Father of the deceased – Rs.10,00,000/-
- ii) Mother of the deceased – Rs.13,89,000/-

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.23,89,000/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.870 of 2022 on the file of the Motor Accident Claims Tribunal and Special District Court, Krishnagiri. Upon such deposit, the Tribunal is directed to transfer the award amount to the claimants to their respective bank accounts, as per the proportion determined by this Court, by way of RTGS, within a period of three weeks from the date of deposit and receipt of the Bank details obtained from the claimants. No costs.

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Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

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