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Civil Miscellaneous Appeal No.886 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.886 of 2024

- 1.Palaniyammal
W/o.Tamilselvan
- 2.Tamilselvan
S/o.Perumal
- 3.Prabakaran
S/o.Tamilselvan

... Appellants

Vs.

- 1.K.Arul
S/o.Karppannan

- 2.M/s.The Oriental Insurance Co. Ltd.,
(having issuing branch office at
Diviya Towers, II Floor, No.15-1,
Fort Main Road, Salem - 636 001)
Having Divisional Office at
Siva Complex, II Floor,
No.22C, Saradha College Main Road,
Salem District - 636 016.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.1781 of 2019 dated 01.11.2021 on the file of Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem.

For Appellants : Mr.R.Navaneetha Krishnan

For Respondents : Ms.R.Sreevidhya [R2]

JUDGMENT



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The appellants/claimants, not being satisfied with the quantum of compensation awarded by the Tribunal, have filed this appeal against the award passed in M.C.O.P.No.1781 of 2019, dated 01.11.2021.

2. The claimants are the parents and elder brother of the deceased. The deceased Bharathi was travelling as a pillion rider in a two-wheeler which was driven by the first respondent on 28.05.2019 and at about 18 hours, the first respondent, who was driving the vehicle in a rash and negligent manner, all of a sudden turned right and lost his control and as a result, the vehicle fell into a pit. The deceased sustained grievous injuries and unfortunately died on the way to hospital. It is under these circumstances, the appellants/claimants filed the claim petition before the Tribunal seeking for compensation.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident had taken place due to the rash and negligent driving on the part of the first respondent. Having rendered such a finding, the Tribunal proceeded to determine the compensation and awarded total compensation of Rs.17,17,000/- in the following manner:



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Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income [(12000*12*17 = 24,48,000 (-) 8,16,000 (1/3)]	16,32,000/-
2.	Loss of love and affection (20000 * 3)	60,000/-
3.	Funeral expenses	25,000/-
	Total	17,17,000/-

The above compensation was directed to be paid with interest at 7.5% p.a. The claimants, not being satisfied with the compensation awarded by the Tribunal, have approached this Court seeking for enhancement of compensation.

4. Heard Mr.R.Navaneetha Krishnan, learned counsel for appellants/claimants and Ms.R.Sreevidhya, learned counsel for second respondent insurance company.

5. This Court carefully considered the submissions made on either side and the materials available on record.

6. This Court also carefully went through the award passed by the Tribunal.



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7. In the instant case, the deceased was a qualified mechanical engineer, which is evident from Ex.P5. He was aged about 27 years at the time of accident and the accident had taken place in the year 2019. The Tribunal has fixed the notional monthly income at Rs.12,000/- which is on the lower side. Hence, this Court is inclined to increase the notional monthly income to Rs.15,000/- p.m. The Tribunal has also not added future prospects and this Court is inclined to add 40% towards future prospects. If so, the loss of income/dependency would be:

Monthly Income	:	Rs. 15,000/-
Add: Future Prospects	:	Rs. 6,000/-
40% of Rs.15,000/-	:	-----
		Rs. 21,000/-
Annual Income	:	Rs. 2,52,000/-
(21,000 * 12)		
Less : Personal expenses		
Rs.2,52,000/- * 1/2	:	Rs. 1,26,000/-

		Rs. 1,26,000/-
Multiplier	:	x 18

Loss of income/dependency	:	Rs.22,68,000/-

8. Insofar as loss of love and affection is concerned, the Tribunal has granted a sum of Rs.20,000/- for each claimant. The appellants 1 and 2/claimants 1 and 2 are the parents of the deceased. Therefore, this Court is inclined to increase the compensation for the parents from Rs.20,000/-



to Rs.40,000/- each. The Tribunal has not granted any amount towards loss of estate and transportation charges and hence, this Court is inclined to grant Rs.15,000/- and Rs.10,000/- under such heads respectively. This Court finds that a sum of Rs.25,000/- has been awarded for funeral expenses and the same is hereby reduced to Rs.15,000/-.

9. In the light of the above discussion, this Court modifies the compensation in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income/dependency	22,68,000/-
2.	Loss of love and affection	1,00,000/-
3.	Funeral expenses	15,000/-
4.	Loss of estate	15,000/-
5.	Transportation charges	10,000/-
	Total	24,08,000/-

10. The compensation awarded by the Tribunal at Rs.17,17,000/- is enhanced to Rs.24,08,000/-. 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



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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 Rs.6,91,000/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 569 days as was ordered by this Court in C.M.P.No.1171 of 2024, dated 18.03.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is allowed in the above terms. No costs.

10.04.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Special District Judge,
MCOP Tribunal, Salem.



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N.ANAND VENKATESH, J.

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