



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.832 of 2024

1.Chitra

2.Nivetha

3.Sudarsan

4.Pappathiammal

..Appellants

.vs.

1.M/s.Pannu Transport Services,
Rep. by the Proprietor,
Having Office at
No.21, Gurudhwara Complex,
N.H. No.8, Chhani Baroda, Vadodara Dt.,
Gujarat State

2.M/s.The Oriental Insurance Co. Ltd.,
Having Divisional Office at Siva Complex,
II Floor, No.22 C, Saradha College Main Road,
Salem District.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in MCOP No.1468 of 2021 dated 05.04.2023, on the file of the Motor Accient Claims Tribunal, Special District Judge, MCOP Tribunal, Salem.



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For Appellants : Mr.R.Navaeetha Krishnan

For Respondent : Mr.R.Sreevidhya for R2

JUDGMENT

The claimants have filed this appeal seeking for enhancement of compensation against the Award passed by the Motor Accident Claim Tribunal, Salem in MCOP No.1468 of 2021, dated 05.04.2023.

2.The case of the claimants is that the deceased who was aged about 59 years was riding his two wheeler on 04.08.2021 at about 20:20 hours in Dharmapuri-Salem Road. When the vehicle approached Pannapatti Branch Road near petrol bunk, the tanker lorry which was driven in a rash and negligent manner and which is owned by the 1st respondent hit the two wheeler due to which the deceased was thrown out of the two wheeler and he sustained grievous injuries and he ultimately, succumbed to injuries on 09.08.2021. It is under these circumstances, the claimants who are the wife, daughter, son and mother of the deceased, have filed the claim petition seeking for compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of evidence came a conclusion that the accident had taken place only due



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to the rash and negligent driving on the part of the tanker lorry driver. Having come to that conclusion, the Tribunal thereafter proceeded further to determine the compensation as follows:

Compensation awarded under the head	Amount (in Rs.)
Loss of income [(10,000 x 12 x 9=) 10,80,000 – 1/4 (2,70,000) =	8,10,000
Loss of love and affection (20,000 x 4)	80,000
Loss of consortium	20,000
Funeral Expenses	25,000
Total	9,35,000

4.The Tribunal thus directed a total compensation of Rs.9,35,000/- to be paid to the claimants with interest at the rate of 7.5% per annum. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed the present appeal before this Court.

5.Heard Mr.R.Navaneetha Krishnan, learned counsel appearing on behalf of the appellants and Mrs.R.Sreevidhya, learned counsel appearing on behalf of the 2nd respondent.



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6. This Court has carefully considered the submissions made on either side and also the materials available on record.

7. In the considered view of this Court, the compensation fixed by the Tribunal requires interference insofar as the income of the deceased that was fixed by the Tribunal. The Tribunal had fixed the notional monthly income at Rs.10,000/- including future prospects of 10%, since the age of the deceased was 59 years. The accident had taken place in the year 2021 and the deceased is said to have run an automobile shop. Considering the same, this Court is inclined to enhance the notional monthly income to Rs.13,000/-. Adding 10% towards future prospects, it works out to a sum of Rs.14,300/- If this monthly income is taken into consideration to calculate loss of income, it works out to Rs.11,58,300/- $[(14300 \times 12 \times 9) - 1/4]$.

8. This Court is also inclined to increase the compensation under the head 'Loss of Love and Affection'. A sum of Rs.40,000/- each is fixed for appellants 2 to 4. Thus, the total compensation towards love and affection is enhanced to Rs.1,20,000/-

9. This Court is also inclined to increase the compensation given under the head of 'Loss of Consortium' to the 1st appellant from Rs.20,000/- to Rs.40,000/-



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10. The Tribunal has not granted any compensation under the head of 'Loss of Estate' and this Court is inclined to grant a sum of Rs.15,000/- towards the head of 'Loss of Estate'.

11. The compensation granted under the head 'Funeral Expenses' is on the higher side and it is reduced from Rs.25,000/- to Rs.15,000/-

12. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

Compensation awarded under the head	Amount (in Rs.)
Loss of income [(14,300 x 12 x 9) – 1/4]	11,58,300
Loss of love and affection (20,000 x 4)	1,20,000
Loss of consortium	40,000
Funeral Expenses	15,000
Loss of Estate	15,000
Total	13,48,300

13. The compensation awarded by the tribunal at Rs.9,35,000/- is enhanced to Rs.13,48,300/-. The second respondent insurance company is directed to deposit the



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enhanced compensation of Rs.13,48,300/-, 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. Insofar as the enhanced compensation of Rs.4,13,300/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay period of 174 days as was ordered by this Court in C.M.P.No.1148 of 2024, dated 14.03.2024. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

This Civil Miscellaneous Appeal is disposed of in the above terms. No costs.

05.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To

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

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