



Civil Miscellaneous Appeal No.787 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.787 of 2024

1.Usha

W/o.Duraisamy

2.Minor Krishna

S/o.Duraisamy

3.Minor Ilkkiya

D/o.Duraisamy

4.Alamelu

W/o.Palanisamy

5.Palanisamy

S/o.Mariyappan

... Appellants

Vs.

1.P.Mariyappan

S/o.Palanisamy

2.M/s.United India Insurance Co. Ltd.,
Salem, having Divisional Office No.1,
TP Hub, No.104-A, Ranga Building,
Peramanur Main Road, Near Four Roads,
Peramanur, Salem.

... Respondents



Civil Miscellaneous Appeal No.787 of 2024

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.231 of 2020 dated 10.02.2022 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

This appeal has been filed seeking for enhancement of compensation awarded in M.C.O.P.No.231 of 2020 dated 10.02.2022 by the Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem.

2. On 16.07.2019, at about 20 hours, when the deceased was riding a two wheeler, a omni car which was driven by the first respondent in a rash and negligent manner dashed the two wheeler and as a result, the deceased sustained greivous injuries and he died on the way to the hospital. The deceased was aged about 42 years at the time of his demise and he left behind his wife, two minor children and his parents as his legal representatives. It is under these circumstances, the claim petition was filed before the Tribunal.



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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 car driver. Thereafter, the Tribunal ventured into the process of fixation of compensation and awarded total compensation of Rs.14,25,000/- in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income [(10000 *12*14 = 16,80,000 (-) 4,20,000 (1/4)]	12,60,000/-
2.	Loss of love and affection (20000 * 5)	1,00,000/-
3.	Loss of consortium	40,000/-
4.	Funeral expenses	25,000/-
	Total	14,25,000/-

The Tribunal directed the above compensation to be paid along with interest at 7.5% p.a.

4. Not being satisfied with the quantum of compensation awarded by the Tribunal, the present appeal has been filed before this Court.



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

6. The main contention that was raised by learned counsel for appellants was that the Tribunal had fixed the monthly income at Rs.10,000/- which also includes future prospects and the same is on the lower side. Learned counsel further submitted that the claimants lost the bread winner at a very crucial time and the Tribunal had awarded a lesser compensation under the head 'loss of love and affection' and no amount has been awarded towards loss of estate.

7. Learned counsel for second respondent insurance company submitted that a very reasonable compensation has been fixed by the Tribunal, which does not require interference of this Court.

8. This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully went through the award that was passed by the tribunal and the reasons assigned therein.



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9. The deceased, at the time of his demise, was engaged in the avocation of silver work. The accident had taken place in the year 2019. Therefore, considering the cost of living that was prevailing at the relevant point of time and considering the avocation in which the deceased was involved and also the age of the deceased, this Court is inclined to increase the notional monthly income to Rs.15,000/-. If so, the loss of income/dependency would be:

Monthly Income	:	Rs. 15,000/-
Add: Future Prospects 25% of Rs.15,000/-	:	Rs. 3,750/- ----- Rs. 18,750/-
Annual Income (18,750 * 12)	:	Rs. 2,25,000/-
Less : Personal expenses Rs.2,25,000/- * 1/4	:	Rs. 56,250/- ----- Rs. 1,68,750/-
Multiplier	:	x 14 -----
Loss of income/dependency	:	Rs.23,62,500/- -----

10. Further, this Court finds that the Tribunal has awarded only a sum of Rs.1,00,000/- towards loss of love and affection and the same is



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enhanced to Rs.1,60,000/- (40,000 * 4 - Rs.40,000/- each for petitioners 2 to 5). This Court also finds that no amount was awarded towards loss of estate and hence, a sum of Rs.15,000/- is awarded under such head. The amount of Rs.25,000/- awarded towards funeral expenses is reduced to Rs.15,000/-. Insofar as the other heads under which the compensation has been granted, the same looks very reasonable and it does not require interference of this Court.

11. Accordingly, the modified compensation would be:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income	23,62,500/-
2.	Loss of love and affection	1,60,000/-
3.	Loss of consortium	40,000/-
4.	Funeral expenses	15,000/-
5.	Loss of estate	15,000/-
	Total	25,92,500/-

12. The compensation awarded by the tribunal at Rs.14,25,000/- is enhanced to Rs.25,92,500/-. 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



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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.11,67,500/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 588 days as was ordered by this Court in C.M.P.No.995 of 2024, dated 14.03.2024. Insofar as the enhanced compensation is concerned, the deficit court fee 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.

04.04.2024

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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