



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.821 of 2024

1.Selvi @ Tamilselvi

2.Vijay

3.Deepa

4.Minor Kavin

5.Minor Kavin

6.Thirumalayai

..Appellants

.VS.

1.P.Sengottaiyan

2.M/s.United India Insurance Co., Ltd,
Having Issuing Office at
Namachivayam Complex
No.4/198, Salem Steel Plant Main Road,
Maramangalathupatti, Salem
Having Divisional Office No.1, TP Hub
No.104-A, Ranga Building, Peramanur Main Road,
Near Four Roads,
Peramanur, Salem.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in MCOP No.378 of 2020 dated 15.07.2022, on



the file of the Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem.

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For Appellant : Mr.R.Navaneetha Krishnan

For Respondents : Ms.R.Sreevidhya for R2

JUDGMENT

The claimants are the appellants in this appeal and they have filed the present appeal seeking for enhancement of compensation against the Award passed by Special District Judge, MCOP Tribunal, Salem in MCOP No.378 of 2020, dated 15.07.2022.

2.The case of the claimants is that the deceased Kuppan @ Sathasivam was travelling in a lorry in his capacity as a lorry cleaner on 18.01.2019 at about 19:00 hours. When the vehicle was running at Thanjavur-Trichy main road and reached near Brindavan Hotel, the lorry driver was driving the vehicle in a rash and negligent manner and as a result, the lorry hit the central median and there was a tyre burst, as a result of which lorry capsized and the deceased sustained grievous injuries and died on the spot. It is under these circumstances, the claimants who are the wife, two sons, two daughters and mother have filed the claim petition seeking for compensation.



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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 1st respondent had driven the lorry in a rash and negligent manner and hence, the accident had taken place only due to the conduct of the 1st respondent. Having rendered such a finding, the Tribunal proceeded further to fix the compensation and the total compensation was fixed at Rs.11,93,000/- in the following manner:

Compensation awarded under the head	Amount (in Rs.)
Loss of Income [(8000 x 12 x 14=) 13,44,000 – 1/4 (3,36,000) =	10,08,000
Loss of Love and Affection (20,000 x 6)	1,20,000
Loss of Consortium	40,000
Funeral Expenses	25,000
Total	11,93,000

4. The respondent Corporation was directed to pay the compensation with interest at the rate of 7.5% per annum. The claimants not being satisfied with the quantum of compensation granted by the Tribunal have filed the present appeal before this Court.



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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.

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

7.In the instant case, the deceased was aged about 44 years at the time of the accident which is evident from the aadhar card marked as Ex.P20. He was working as a lorry cleaner. The claimants contended that he was earning not less than Rs.20,000/- per month. However, the Tribunal has fixed the notional income at Rs.8,000/- including the future prospects of 25%.

8.Considering the fact that the accident had taken place in the year 2019 and considering the price index and cost of living, this Court finds that the notional income is on a lower side and hence, this Court is inclined to fix the monthly notional income at Rs.13,000. After 25% is added towards future prospects, the total monthly income will workout to Rs.16,250. In view of the same, the loss of income will be arrived at Rs.20,47,500/- $[(13000 + 25\% \times 12 \times 14) - 1/4]$.



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9.The Tribunal has only granted a sum of Rs.20,000/- for each of the claimants towards the head of 'Loss of love and affection'. Considering the fact that the deceased had died at a crucial time leaving behind the wife, four children and his mother, this Court is inclined to enhance the compensation at Rs.40,000/- for each claimant towards loss of love and affection.

10.The Tribunal has not granted any compensation towards loss of estate and this Court is inclined to grant a sum of Rs.15,000/- towards loss of estate. The Tribunal has fixed funeral expenses at Rs.25,000/- which is on higher side and the same is reduced to Rs.15,000/-

11.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 [(13000 + 25% x 12 x 14=) – 1/4]	20,47,500
Loss of Love and Affection (40,000 x 5)	2,00,000
Loss of Consortium	40,000
Loss of Estate	15,000
Funeral Expenses	15,000
Total	23,17,500





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



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N. ANAND VENKATESH., J

SSR

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