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Civil Miscellaneous Appeal No.1021 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1021 of 2024

1.Pillareddy
S/o.Chinnappareddy

2.Arunkumar
S/o.Pillareddy

3.Balaji
S/o.Pillareddy

4.Chandra
W/o.Balaramareddy

... Appellants

Vs.

1.M.B.Balaram

2.The Manager,
Magma HDI General Insurance Company Ltd.,
1st Floor, HM Astrid, No.36 JC Road,
Bangalore - 560 002, Karnataka.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 14.03.2022 made in M.C.O.P.No.854 of 2020 on the file of Motor Accident Claims Tribunal, Special District Court, Krishnagiri.



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For Appellants : Mr.S.P.Yuaraj

For Respondents : Mrs.R.Sreevidhya [R2]

JUDGMENT

The appellants/claimants, who are the husband, sons and mother of the deceased, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special District Court, Krishnagiri, in M.C.O.P.No.854 of 2020, dated 14.03.2022, have filed this appeal.

2. The case of the claimants is that the deceased Kala was travelling in a car on 04.03.2020 at Hosur to Krishnagiri National Highways and at about 04.00 a.m., when the car was going near a flyover, the offending vehicle, a Mahindra Pickup van, was driven in a rash and negligent manner and it abruptly stopped in the middle of the road, as a result of which the car in which the deceased was travelling dashed on the rear side of the Mahindra Pickup van and as a result, the deceased sustained fatal injuries and she died on the way to hospital. A First Information Report came to be registered in Crime No.46 of 2020 against the driver of the Mahindra Pickup Van. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking



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 driver of the offending vehicle. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.18,91,000/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	17,01,000/-
2.	Loss of estate	15,000/-
3.	Funeral expenses	15,000/-
4.	Loss of consortium	1,60,000/-
	Total	18,91,000/-

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

4. The claimants, not being satisfied with the quantum of compensation awarded by the Tribunal, have filed this appeal seeking enhancement of compensation.

5. Heard Mr.S.P.Yuaraj, learned counsel for appellants/claimants and Mrs.R.Sreevidhya, learned counsel for second respondent insurance



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

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

8. The bone of contention is with regard to the monthly income fixed by the Tribunal. The deceased, in this case, was 38 years and the claimants came up with the case that the deceased was doing milk business and was earning a monthly income of Rs.25,000/-. There was no evidence regarding the avocation of the deceased or the monthly income earned. The Tribunal fixed the notional monthly income at Rs.9,000/-.

9. The deceased can be safely taken to be a house wife taking care of her husband and two children. The accident had taken place in the year 2020 and this Court is inclined to fix the notional monthly income at Rs.13,500/- and 40% can be added towards future prospects. The Tribunal has deducted 1/4 towards the personal expenditure of the deceased. In the



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instant case, the fourth claimant was the mother of the deceased.

Therefore, 1/3 can be deducted towards personal expenditure of the deceased. Thus, the compensation under the head 'loss of income/dependency' is calculated as follows:

Monthly Income	:	Rs. 13,500/-
Add: Future Prospects	:	Rs. 5,400/-
40% of Rs.13,500/-		-----
		Rs. 18,900/-
Annual Income	:	Rs. 2,26,800/-
(18,900 * 12)		
Less : Personal expenses		
Rs.2,26,800/- * 1/3	:	Rs. 75,600/-

		Rs. 1,51,200/-
Multiplier	:	x 15

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

10. The compensation granted under the other heads is justified and does not require the interference of this Court.

11. For the foregoing reasons, the compensation awarded by the Tribunal is modified as follows:



<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of dependency	17,01,000/-	22,68,000/-
2.	Loss of estate	15,000/-	15,000/-
3.	Funeral expenses	15,000/-	15,000/-
4.	Loss of consortium	1,60,000/-	1,60,000/-
	Total	18,91,000/-	24,58,000/-

12. The compensation awarded by the Tribunal at Rs.18,91,000/- is enhanced to Rs.24,58,000/-. The second respondent insurance company is directed to deposit the compensation awarded by this Court, 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 six (6) weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.5,67,000/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 190 days as was ordered by this Court in C.M.P.No.1346 of 2024 in C.M.A.Sr.No.4774 of 2024 dated 20.03.2024. 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.



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costs.

In the result, the Civil Miscellaneous Appeal is partly allowed. No

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Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Special District Court,
Krishnagiri.

N.ANAND VENKATESH, J.

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