



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.3711 of 2021

Theivanai Ammal (Died)
Manickammal (Died)

1. Gunasekaran
2. Rajakumari

... Appellants

Vs.

1. G.Prabhakaran
2. The Divisional Manager
Oriental Insurance Co. Ltd.,
Vellore.

3. Poongothai
4. Venkatesh Babu

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against judgment and decree dated 08.10.2020 in MCOP. No.1/2005 passed by the Motor Accident Claims Tribunal (Sub Court), Gingee, Villupuram.

For Appellant : Mr. M.Sivakumar

For Respondents : Mr.M.Vinoth for RR3 & 4
R1 NRN



WEB COPY

JUDGMENT

The first appellant is the son and the second appellant is the daughter of the deceased Perumal Gounder. The claimants not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal.

2. The case of the claimants is that on 16.04.1990, while the deceased Perumal Gounder was riding his two wheeler near Eeyakunam cross road, a van bearing Reg. No.TDJ 9526 driven by its driver in a rash and negligent manner with great speed hit the deceased and cause fatal injuries to the Perumal Gounder and he died on the spot. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation for a sum of Rs.3,00,000/-

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 van and awarded Rs.97,500/- towards compensation for the death of the deceased under



WEB COPY

various heads.

4. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

5. The learned counsel for the appellants submitted that the age of the claimant is aged about 66 years at the time of the accident and he was running a rice mill and also doing agricultural works and was earning a sum of Rs.5,000/- per month. Without considering the same, the Tribunal has fixed the notional income at Rs.1,500/- which is very meagre. Further, the Tribunal has not awarded compensation towards loss of consortium and loss of love and affection. Therefore, this Court may interfere with the impugned award and modify the same.

6. Per contra, the learned counsel appearing for the second respondent-Insurance Company contended that due to rash and negligent driving of the driver of the van, the accident had happened. However, the Tribunal, after considering the evidences and witnesses, has awarded



compensation, which is just and proper and the same does not need any opportunity. Hence, this Court may dismiss the petition.

7. Heard the learned counsel for appellants/claimants and the learned counsel for 2nd respondent.

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

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

10. The fact in the present case is not in dispute and the manner of the accident is also not in dispute. For enhancement of compensation, the present appeal has been filed.

11. In the instant case, the deceased was aged about 66 years at the time of the accident and he was a running a rice mill and was doing



WEB COPY

agriculture works and was earning a sum of Rs.5,000/- per month. The Tribunal has fixed the notional monthly income at Rs.1,500/- including future prospects since there was no proof regarding the avocation or the monthly income of the deceased. The accident had taken place in the year 1990 and the notional monthly income fixed by the Tribunal is very much on the lower side. Considering the age of the deceased, the age of the claimants and also the year in which the accident had taken place, this Court is inclined to fix the notional monthly income at Rs.2,000/-. The age of the deceased was 66 years and no future prospects is added. If so, the loss of income /dependency would be:

Monthly Income	:	Rs. 2,000/-
Annual Income (2,000 * 12)	:	Rs. 24,000/-
Less : Personal expenses Rs.24,000/- * 1/4	:	Rs. 6,000/-

		Rs. 18,000/-
Multiplier	:	x 5

Loss of income/dependency	:	Rs. 90,000/-

12. The Tribunal has not awarded any compensation towards loss of love and affection. This Court is inclined to award a sum of



WEB COPY

Rs.40,000/- (Rs.10,000 x 4) under the head of loss of love and affection as there are four dependents. The other heads awarded by the Tribunal is just and proper which needs no interference.

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

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of dependency	67,500	90,000
Love and affection		40,000
Funeral Expenses	15,000	15,000
Loss of estate	15,000	15,000
Total	97,500	1,60,000

14. The compensation awarded by the Tribunal at Rs.97,500/- is enhanced to Rs. 1,60,000/-. The liability fixed by the Tribunal is confirmed. The second respondent is directed to deposit the entire award amount, 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



WEB COPY

enhanced compensation, the appellants are entitled to get a sum of Rs.80,000/- each with interest and costs. The appellants/claimants are not entitled for interest for the period of delay period. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants.

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

18.12.2024

rli

To,
The Judge,

Motor Accident Claims Tribunal (Sub Court), Gingee, Villupuram.



WEB COPY



M.DHANDAPANI.,J

rli

Civil Miscellaneous Appeal No.3711 of 2021

18.12.2024