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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.2141 of 2024
and CMP No.16543 of 2024

TATA AIG General Insurance Company Ltd.,
Branch Office, Unit No.159-A, 1st Floor,
Parimalam Complex, No.156-161,
Erode – 638 011.

... Appellant

.VS.

1.Sangeetha

2.Brindha

3.Minor.Srimathi

4.Minor.Abishek

5.Alamelu

6.Ponmalar

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the award dated 13.10.2023 made in MCOP No.49 of 2020, on the file of the Motor Accident Claims Tribunal, Dharmapuri.

For Appellant : Mr.K.Vinod

For Respondents : Mr.S.Udayakumar for R1 to R5



JUDGMENT

The Insurance Company has filed the present appeal questioning the compensation fixed against the award passed by the Tribunal in MCOP No.49 of 2020, dated 13.10.2023.

2.The claimants who are the wife, three children and mother of the deceased Subramani filed the claim petition on the ground that the deceased Subramani on 21.08.2019 was proceeding in a two wheeler as a pillion rider at Dharmapuri-Krishnagiri National Highways and at about 7 p.m., when the vehicle was going near Koradahalli bus stop, the offending vehicle which was a car was driven in a rash and negligent manner and it came from behind and dashed on the two wheeler. As a result, the deceased was thrown out of the vehicle and he sustained grievous injuries and died on the spot. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

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 come to such a conclusion, the



Tribunal fixed the total compensation payable at Rs.30,88,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Dependency	28,35,000
2.	Loss of Consortium	44,000
3.	Loss of Love and Affection	1,32,000
4.	Filial Consortium	44,000
5.	Loss of Estate	16,500
6.	Funeral Expenses	16,500
7.	Medical Expenses	NIL
	Total	30,88,000

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The Insurance Company aggrieved by the quantum of compensation fixed by the Tribunal has filed the present appeal before this Court.

6.Heard Mr.K.Vinod, learned counsel appearing on behalf of the appellant and Mr.S.Udayakumar, learned counsel appearing on behalf of respondents 1 to 5.



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

8.In the instant case, the accident had taken place in the year 2019. The claimants came up with a case that the deceased Subramani was a building contractor and he was earning a sum of Rs.50,000/- per month. There was no proof regarding the occupation of the deceased and the income earned by him. The Tribunal fixed the notional monthly income at Rs.18,000/- per month. The same requires the interference of this Court and this Court is inclined to fix a sum of Rs.16,000/- per month as notional monthly income. Considering the age of the deceased, 25% can be added towards future prospects. Thus, the compensation under the head of loss of dependency is calculated as follows:

$$\text{Rs.20,000} \times 12 \times 14 \times \frac{3}{4} = \text{Rs.25,20,000/-}$$

9.The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

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



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Dependency	25,20,000
2.	Loss of Consortium	44,000
3.	Loss of Love and Affection	1,32,000
4.	Filial Consortium	44,000
5.	Loss of Estate	16,500
6.	Funeral Expenses	16,500
	Total	27,73,000

11.The compensation awarded by the Tribunal at Rs.30,88,000/- is reduced to Rs.27,73,000/-. The appellant insurance company is directed to deposit the reduced compensation, 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 weeks from the date of receipt of this judgment. Considering the dependency of the claimants with deceased, the compensation awarded by this Court shall be shared by the respondents/claimants herein as per the following apportionment:

- The 1st claimant/1st respondent herein is entitled to a sum of Rs.8,73,000/-
- The claimants 2 to 4/respondents 2 to 4 herein is entitled to a sum of Rs.5,50,000/- each



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ssr

c) The 5th claimant/5th respondent herein is entitled to a sum of Rs.2,50,000/-

The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

12.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

02.08.2024

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

To

The Motor Accident Claims Tribunal, Dharmapuri.

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