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C.M.A.No.1165 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.1165 of 2024

1.Nishalini

2.Minor. Sakthivel

.. Appellants

(Minor 2nd appellant is represented by his next friend / grandmother / guardian Siddhammal)

(Cause title accepted vide Court order dated 18.03.2024 made in C.M.P.No.5315 of 2024 in C.M.A.SR.No.9128 of 2024)

Vs.

1.M.Selvam

2.The Branch Manager,
United India Insurance Company Limited,
No.22-B, P.R.Sundaram Iyer Street,
Dharmapuri – 636 701.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to allow the Civil Miscellaneous Appeal and set aside the award dated 23.03.2022 made in M.C.O.P.No.104 of 2021 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri.

For Appellants : Mr.D.Rameshkumar
For R2 : Mr.J.Michael Visuvasam



JUDGMENT

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The claimants who are the minor children of the deceased not being satisfied with the quantum of compensation has filed the present appeal as against the award passed by the Motor Accident Claims Tribunal, Special District Court, Dharmapuri, in M.C.O.P.No.104 of 2021 dated 23.03.2022.

2.The case of the claimants is that on 19.11.2020, the deceased Salammal was traveling in a car belonging to 1st respondent at Adhiyamankottai – Dharmapuri road. The car was driven in a rash and negligent manner by the 1st respondent and he lost control and the car rammed on the roadside tree. The deceased sustained serious injuries and she was admitted to the Hospital. She underwent treatment for nearly 51 days and ultimately succumbed to the injuries. An FIR came to be registered in Crime No.1385 of 2020 against the driver of the car. 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 the 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 car.

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4.The Tribunal having reached the above finding, proceeded to fix the total compensation at Rs.22,68,000/- under various heads as follows:

Compensation for pecuniary loss	Rs.15,12,000/-
Loss of parental consortium for petitioners	Rs.80,000/-
Loss of estate	Rs.15,000/-
Funeral expenses	Rs.15,000/-
Medical expenses	Rs.6,05,000/-
Physiotherapy expenses	Rs.15,000/-
Transport expenses	Rs.26,000/-
Total	Rs.22,68,000/-

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

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

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



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

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

10.The main ground that was urged by the learned counsel for the appellants is with regard to the notional monthly income that was fixed by the Tribunal at Rs.9,000/-. In the instant case, the deceased was a mother of two minor children and she was aged about 38 years. The accident had taken place on 19.11.2020. In view of the same, this Court is inclined to fix a sum of Rs.16,000/- towards notional monthly income of the deceased. Considering the age of the deceased 40% can be added towards future prospects. Thus, the compensation under the head of loss of income / dependency is modified as follows:

Monthly income fixed	:	Rs.16,000/-
Future prospects to be added	:	40%
Notional Income arrived at	:	Rs.16,000/- + 40% Rs.22,400/-
After deducting 1/3 rd for personal expenses	:	Rs.14,933.33



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Multiplier to be adopted : 15
Loss of Dependency
Rs.14,933.33 X 12 X 15 : Rs.26,88,000/-

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

12.In the light of the above discussions, the compensation awarded by the Tribunal is modified as follows:

1.Loss of income / dependency	-	Rs.26,88,000/-
2.Loss of parental consortium	-	Rs.80,000/-
3.Loss of Estate	-	Rs.15,000/-
4.Funeral Expenses	-	Rs.15,000/-
5.Medical expenses	-	Rs.6,05,000/-
6.Physiotherapy expenses	-	Rs.15,000/-
7.Transport expenses	-	Rs.26,000/-
Total		Rs.34,44,000/-

13.The compensation awarded by the Tribunal at Rs.22,68,000/- is

hereby enhanced to Rs.34,44,000/-. The 2nd respondent – Insurance

<https://www.mhc.tn.gov.in/judis>



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Company is directed to deposit the enhanced compensation together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four (4) weeks from the date of receipt of a copy of this judgment, if not already deposited. Insofar as the enhanced compensation of Rs.11,76,000/- is concerned, the appellants / claimants will not be entitled for interest for the period of delay of 581 days in filing this appeal. 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.

14.In the result, the Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

31.07.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No



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To

1.The Special District Judge,
Motor Accident Claims Tribunal,
Special District Court,
Dharmapuri.

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.

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N.ANAND VENKATESH, J.

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