



C.M.A.No.251 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 19.09.2024

CORAM

THE HON'BLE MRS. JUSTICE K.GOVINDARAJAN THILAKAVADI

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- 1.Narmatha
- 2.Minor Haripriya
- 3.Minor Tharun`
- 4.Rajamani

The 2nd and 3rd Minor
petitioners are rep., by
their next
friend/Guardian/Mother
Narmatha.

... Appellants

Versus

- 1.Sathya
- 2.The Oriental Insurance Co., Ltd.,
Divisional Office: Dhivya Towers,
15-1, 2nd floor, Fort Main road,
Salem-636 001.

... Respondent

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988), against the order in MCOP.No.1701 of 2019, dated 02.09.2021, on the file of the Motor accident Claims Tribunal/Special District Judge Court, Salem.



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For Appellants : M/s.C.Paraneedharan
For RR1 : Exparte
For R2 : Mr.J.Vijaya Raghavan

JUDGMENT

The Civil Miscellaneous appeal is directed as against the order passed by the Special District Judge Court, Salem, in MCOP.No.1701 of 2019, dated 02.09.2021.

2.Shortly stated, on 07.05.2019, at about 3.p.m, when the deceased Ashok was standing in the Salem Namakkal main road near Pon nagar Nobal Honda Show Room, a two wheeler bearing Registration No.TN 90 -D7795 driven by its driver in a rash and negligent manner hit against the deceased Ashok. Due to the said accident, the said Ashok sustained grievous injuries and was admitted in the Government Hospital at Namakkal where he succumbed to injuries on 07.05.2019 at about 8.20 hours. At the time of accident, the deceased was 40 years old. He was working in a private work shop receiving salary of Rs.30,000/- per



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month. Accordingly, claim for compensation has been made by the legal heirs.

3.The 1st respondent/ owner of the vehicle remained ex-parte.

4.The 2nd respondent/Insurance Company alleged that the accident took place due to the negligence of the deceased who suddenly crossed the road and fell before the motor cycle. Therefore, the Insurance Company is not liable to pay the compensation.

5.The claims Tribunal came to the conclusion that the accident took place as alleged and the claimants are entitled to claim compensation from the 1st respondent/owner of the vehicle, since, the driver of the 1st respondent vehicle was not having a valid license at the time of the accident and ordered for pay and recovery.

6.Through this appeal, award has been challenged by the claimants on the ground namely, quantum awarded by the Tribunal is very low. There is no dispute with regard to taking place of the accident, as alleged by the claimants, but for rash and negligent driving of the vehicle, it



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would not have taken place. Findings recorded by the learned claims

Tribunal is, therefore, sustained.

7. There is a dispute with regard to the income of the deceased.

M/s.C.Paraneedharan, learned counsel for the claimants, submits that the deceased at the time of accident was working in a private workshop and was earning a sum of Rs.30,000/- per month. The claimant has produced Ex.P.23 certificate to prove the income of the deceased. But the Tribunal without considering the above document erroneously fixed the monthly income of the deceased at Rs.12,000/- per month. His further submission is that though there are four dependents, the Tribunal has erroneously taken $\frac{1}{3}$ rd while calculating the annual dependency. The learned counsel for the claimants would further submit that the deceased was the sole bread winner of the family and the claimants being the wife, minor children and mother of the deceased are struggling for their livelihood. The award of Rs.14,13,000/- is very meagre and therefore the same requires consideration by this Court.

8. On the other hand, Mr.J.Vijaya Raghavan, learned counsel for the 2nd respondent would submit that the Tribunal has awarded a just



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compensation considering the oral and documentary evidence on record which calls for no interference.

9.Heard on both sides, records perused.

10.Considering the facts and circumstances of this case and the age of the deceased and the year the accident took place, this Court deems it appropriate to fix the monthly income of the deceased at Rs.14,000/- per month with 25% for future prospect. Admittedly, there are four dependents. Consequently, annual dependency after deduction of 1/4th towards personal expenses and multiplied by 13, loss of income to the petitioners, comes to Rs.20,47,500/-. The other sums awarded to the claimant are confirmed. It is also not in dispute that the driver of the offending vehicle did not possess a valid license at the time of accident. Hence, pay and recover ordered by the Tribunal is sustained.

11.Therefore, this Court finds it reasonable to enhance the compensation as follows:



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S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of income	12,48,000	20,47,500	Enhanced
2.	Loss of love and affection	80,000	80,000	Confirmed
3.	Loss of consortium	40,000	40,000	Confirmed
4.	Medical Bills	20,000	20,000	Confirmed
5.	Funeral Expenses	25,000	25,000	Confirmed
	Total	14,13,000	22,12,500	Enhanced by Rs.7,99,500/-

12.In the result, this civil miscellaneous appeal is partly allowed, the compensation awarded by the Tribunal at Rs.14,13,000/- is hereby enhanced to Rs.22,12,500/- together with interest at 7.5% per annum from the date of petition till the date of deposit. The 2nd respondent/Insurance Company is directed to pay the above said compensation amount now determined by this Court to the claimants along with interest and costs, less the amount already deposited, if any, within a period of eight (8) weeks from the date of a receipt of copy of this Judgment and shall recover the same from the 1st respondent/owner



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of the vehicle thereafter. On such deposit the Claimants 1 and 4 are permitted to withdraw their share amount along with interest and cost, less the amount already withdrawn, if any by filing necessary application before the Tribunal. The 1st claimants being the wife of the deceased is entitle to Rs.13,12,500/-. The claimants 2 to 4 are entitled to Rs.3,00,000/- each towards their shares. The share amount of the minor claimants 2 and 3 shall be invested in any one of the Nationalized banks until they attain majority and the 1st petitioner being their mother and natural guardian is permitted to withdraw the interest accrued on the share of the minor petitioners once in three months for the maintenance and welfare of the minors. The claimants are directed to pay the necessary Court fee, if any for the enhanced award amount. No costs.

19.09.2024

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To:

- 1.The Special District Judge Court, Salem.
- 2.The Section Officer,
VR Section,
High Court, Madras.



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K.GOVINDARAJAN THILAKAVADI,J.

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