



Civil Miscellaneous Appeal No.1663 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1663 of 2024

1. Madhammal
2. Chandran
3. Premavathi ... Appellants

Vs.

1. P.Kalaiselvi
2. M/s.United India Insurance Co Limited,
No.14-1-77B, Salem Main Road,
Pudhuchampalli, Raman Nagar Post,
Mettur Dam, Salem District – 636 401 ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order and decree in M.C.O.P No.1476 of 2017 dated 30.06.2022 on the file of the Additional District Judge (Fast Track Court), Mettur.

For Appellant : Mr.R.Nalliyappan

For Respondents : Mr.S.Arun Kumar for R2



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JUDGMENT

The claimants, who are the parents and the sister of the deceased Balamurugan, not being satisfied with the quantum of compensation, have filed this appeal challenging the award passed by the Additional District Judge (Fast Track Court), Mettur in M.C.O.P No.1476 of 2017 dated 30.06.2022.

2. The case of the claimants is that the deceased Balamurugan on 26.05.2017 was riding a two wheeler in which his wife was the pillion rider at Mecheri to Mettur main road and at about 17.00 hours, the offending vehicle which was a bus came in the opposite direction and it was driven in a rash and negligent manner and it hit the two wheeler. As a result, both the rider and the pillion rider were thrown out of the vehicle and they sustained grievous injuries and both of them succumbed to the injuries. An FIR came to be registered against the driver of the bus in Crime No.188 of 2017. 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 rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.16,03,000/- 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	Rs.14,28,000/-
2.	Loss of estate	Rs. 30,000/-
3.	Consortium to the appellants	Rs.1,20,000/-
4.	Funeral expenses	Rs.15,000/-
5.	Transport Expenses	Rs.10,000/-
	Total	Rs.16,03,000/-

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

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. Heard Mr.R.Nalliyappan, learned counsel for appellants/ claimants and Mr.S.Arun Kumar, learned counsel for 2nd respondent / Insurance company.

6. This Court has 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 main ground that was urged by the learned counsel for appellants is with regard to the notional monthly income that was fixed by the Tribunal at Rs.10,000/-. The other ground that was raised was regarding $\frac{1}{2}$ that was deducted towards the personal expenditure of the deceased.



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9. In the instant case, the accident had taken place in the year 2017 and the deceased was aged about 26 years at the time of the accident. The dependants in this case are the parents and the sister. Strictly speaking, it is only the parents who are the dependants. The wife also died in the same accident. It was brought to the notice of this Court that a claim petition was filed by the parents of the wife and separate compensation was awarded and it was also paid.

10. This Court is inclined to fix a sum of Rs.15,000/- towards notional monthly income, considering the fact that the deceased was aged about 26 years and the parents were dependent on his income and he was carrying on the occupation of a driver. 40% can be added towards future prospects. Insofar as half that was deducted towards personal expenditure of the deceased, the same is in line with the judgement of the Apex Court in *Sarla Varma* case reported in **2009 2 TANMAC 1**. Thus, the compensation under the head of loss of dependency is calculated as follows :-



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Monthly Income : Rs. 15,000/-

Add: Future Prospects : Rs. 6,000/-
40% of Rs.15,000/- -----
Rs. 21,000/-

Annual Income : Rs. 2,52,000/-
(21,000 * 12)
Less : Personal expenses
Rs.2,52,000/- * 1/2 : Rs. 1,26,000/-

Multiplier : Rs. 1,26,000/-
x 17 -----

Loss of income/dependency : Rs.21,42,000/-

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

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



<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	Rs.21,42,000/-
2.	Loss of estate	Rs. 30,000/-
3.	Consortium to the appellants	Rs.1,20,000/-
4.	Funeral expenses	Rs.15,000/-
5.	Transport Expenses	Rs.10,000/-
	Total	Rs.23,17,000/-

13. The compensation awarded by the Tribunal at Rs.16,03,000/- is enhanced to Rs.23,17,000/-. The 2nd respondent Insurance company is directed to deposit the enhanced 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 four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.7,14,000/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 106 days as was ordered by this Court in C.M.P.No.2585 of 2023, dated 03.06.2024. 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



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mode of payment of compensation remains unaltered.

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

15.07.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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N.ANAND VENKATESH.,J

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To,

Additional District Judge (Fast Track Court), Mettur.

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