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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1695 of 2024

1.Elamathi

2.P.Ponmani

3.P.Praveen

4.Samburanam

... Appellants

.VS.

1.P.Mathiyalagan

2.M/s.United India Insurance Co., Ltd.,
104-A, A Peramanur Main Road, Peramanur,
Salem.

..Respondents

[Cause title accepted vide order dated 22.02.2024 made in CMP No.2857 of 2024
in CMA Sr. No.12456 of 2024]

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Award dated 01.03.2023 made in MCOP No.503 of 2020 on the file of MACT/Special District Court at Salem.

For Appellant : Mr.M.Lokesh

For Respondents : Mr.D.Bhaskaran for R2



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JUDGMENT

The claimants not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.503 of 2020, dated 01.03.2023 have filed this appeal seeking for enhancement of compensation.

2.The claimants who were the parents of the deceased Praveena filed the claim petition on the ground that on 31.12.2019, the deceased Praveena was crossing the road in front of the EB office at about 8.15 a.m., and at that point of time, the offending vehicle which was driven in a rash and negligent manner dashed against the said Praveena and she died on the spot due to fatal injuries. 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.9,29,000/- under various heads as follows:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income [(8,000 x 12 x 8=)17,28,000 – ½ =8,64,000	8,64,000
2.	Loss of Love and Affection (20,000 x 2)	40,000
3.	Funeral Expenses	25,000
	Total	9,29,000

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

5.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation. Since the father of the deceased died, the other son, daughter and also the grandmother have been impleaded as appellants in this appeal.

6.Heard Mr.M.Lokesh, learned counsel appearing on behalf of the appellant and Mr.D.Bhaskaran, learned counsel appearing on behalf of the 2nd respondent.

7.The first issue is with regard to the notional income fixed by the Tribunal at Rs.8,000/- per month including 40% future prospects. The deceased was aged about 18 years and was studying Diploma in Medical Laboratory Technology.



Ex.P8 was marked to substantiate this fact. On going through the same, it is seen that the deceased was a bright student and had taken 'A'-Grade. Considering the course underwent by the deceased, it is quite evident that she would have got a job immediately in some laboratory and would have earned money and contributed the same to the family.

8.In view of the above, a sum of Rs.8,000/- that was fixed by the Tribunal including future prospects as notional monthly income is clearly on the lower side. This Court is inclined to fix a sum of Rs.10,000/- towards notional monthly income and add 40% towards future prospects. This is in view of the fact that the father of the deceased died and the mother is also taken care by two other children out of which one is a son.

9.The compensation under the head of loss of income/dependency is calculated as follows:

$$\text{Rs.14,000} \times 12 \times 18 \times 1/2 = \text{Rs.15,12,000/-}$$

10.The Tribunal has fixed only a sum of Rs.40,000/- under the head of loss of love and affection. This Court is inclined to enhance the same to Rs.1,20,000/- (Rs.40,000/- x 3).



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11.The Tribunal has fixed a sum of Rs.25,000/- towards funeral expenses and the same is brought down to Rs.15,000/- The Tribunal has not granted any compensation under the head of loss of estate and this Court is fixed a sum of Rs.15,000/- under this head.

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

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income [Rs.14,000 x 12 x 18 x ½]	15,12,000
2.	Loss of Love and Affection (20,000 x 2)	1,20,000
3.	Funeral Expenses	15,000
4.	Loss of Estate	15,000
	Total	16,62,000

13.The compensation awarded by the tribunal at Rs.9,29,000/- is enhanced to Rs.16,62,000/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.16,62,000/-, 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.7,33,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 222 days as was ordered by this Court in C.M.P.No.5703 of 2024, dated 26.06.2024. On such deposit, the 1st appellant is entitled to withdraw the amount with accrued interest. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants.

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

18.07.2024

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



To

The MACT/Special District Court at Salem.



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N. ANAND VENKATESH., J

SSR

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