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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.524 of 2023

1.Gomathi

2.Arul Doss

..Appellants

.VS.

1.The Managing Director
M/s.PRM Road Ways Pvt. Ltd.,
No.5, VRP Chatram
Chennai-Bengalore bypass
Sriperumpudhur
Kancheepuram-602 105.

2.The Manager
The New India Assurance Co.Ltd.,
Third Party Cell, 2nd Floor
CSI Building, Commercial Complex
Officer Line, Vellore-632 001.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 12.09.2022 made in M.C.O.P.No.433 of 2019, on the file of the Motor Accident Claims Tribunal/Additional District Judge (FTC), Kancheepuram.



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For Appellants : Mr.T.Pushkin Rajkumar
for Mr.N.Sethu Raghavan

For Respondents : Mrs.A.Salomi
for R2

No appearance for R1

JUDGMENT

The claimants who are the parents of the deceased Ajay not being satisfied with the quantum of compensation fixed by the Tribunal in M.C.O.P.No.433 of 2019, dated 12.9.2022, have filed the present appeal seeking for enhancement of compensation.

2.The case of the claimants is that the deceased Ajay was driving his two wheeler on 09.04.2019 and was returning back from Sriperumandur and at about 21.30 hours the offending vehicle which came from the opposite direction dashed on the two wheeler and as a result, the deceased was thrown out of the vehicle and he sustained grievous injuries. He also succumbed to the injuries. An FIR came to be registered against the driver of the offending vehicle in Crime No.199 of 2019. 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. The Tribunal after having reached such a finding fixed the total compensation payable at Rs.6,10,000/- under various heads as follows:

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income	5,40,000
2.	Loss of love and affection	40,000
3.	Loss of happiness	15,000
4.	Loss of Estate	15,000
	Total	6,10,000/-

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

5.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal, have filed the present appeal seeking for enhancement of compensation.

6.Heard Mr.T.Pushkin Rajkumar, learned counsel for the appellants and Mrs.A.Salomi, learned counsel for R2. The 1st respondent has been served with notice and the name has also been printed in the cause list. There is no appearance either in person or through counsel.



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7.This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully gone through the award passed by the Tribunal.

8.The Tribunal has fixed the annual income of the deceased at Rs.30,000/- . In the instant case the deceased was aged about 18 years which is evident from the post-mortem certificate which was marked as Ex.P.2 and the death certificate which was marked as Ex.P.3. At the time of the accident, the claimant was studying in IIT which is evident from Ex.P.8. In view of the same, the annual income that was fixed by the Tribunal is on the lower side. This Court is inclined to fix the notional monthly income at Rs.10,000/-. If 40% is added towards future prospects, it works out to a sum of Rs.14,000/- [10,000/- + 4000/-]. Thus, the compensation under the head 'loss of income' which includes the dependency is calculated as follows:

Monthly income	:	Rs. 10,000/-
Add future prospects		
40% of Rs.10,000/-	:	Rs. 4,000/-

		Rs. 14,000/-
Annual Income		
(14,000 * 12)	:	Rs.1,68,000/-
Less: Personal expenses		
Rs.1,68,000/- *1/2	:	Rs. 84,000/-

		Rs. 84,000/-
		x18/-

Loss of income/dependency	:	Rs.15,12,000/-



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9.The Tribunal has granted a sum of Rs.40,000/- under the head 'loss of love and affection'. This Court is inclined to enhance the same to Rs.80,000/- [Rs.40,000 x 2]. Having granted the compensation under the head 'loss of love and affection', a separate compensation cannot be granted under the head 'loss of happiness' and this head under which the compensation was granted is set aside. This Court finds that no amount has been awarded towards 'funeral expenses' and hence, a sum of Rs.15,000/- is awarded under this head.

10.In the light of the above discussion, the compensation granted by the Tribunal is modified as follows :

Sl. No	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Loss of income	5,40,000/-	15,12,000/-
2.	Loss of love and affection	40,000/-	80,000/-
3.	Loss of happiness	15,000/-	---
4.	Loss of Estate	15,000 /-	15,000/-
5.	Funeral Expenses	15,000/-	15,000/-
	Total	6,10,000/-	16,22,000/-

11.In the result, the compensation fixed by the Tribunal is enhanced from Rs..6,10,000/- to Rs.16,22,000/- and the enhanced amount is payable by the 2nd respondent/Insurance Company with interest at the rate of Rs.7.5% per annum



from the date of filing of the petition till the date of realisation within a period of six weeks from the date of receipt of copy of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants/claimants. 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 in the above terms. No costs.

26.06.2024

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

1.The Manager
The New India Assurance Co.Ltd.,
Third Party Cell, 2nd Floor
CSI Building
Commercial Complex
Officer Line
Vellore-632 001.

2.Motor Accident Claims Tribunal/
Additional District Judge (FTC)
Kancheepuram.



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N. ANAND VENKATESH., J

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