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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1757 of 2024

1.Sivagami

2.Minor.hemavarni

(Rep. by next friend/guardian mother 1st petitioner)

3.Thailammal

... Appellants

.VS.

1.M/s.LRN Auto Agencies Pvt. Ltd.,

Rep. by the Proprietor,

Having office at New Ward T-Block No.12,

Kandampatty Bye-pass Road,

Near RTO Office, Salem.

2.M/s.ICICI Lombard General Insurance Co., Ltd.,

Having its Branch Office at

Swarnambigai Plaza, 1st Floor, Omalur Main Road,

Near New Bus Stand, Salem.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree in MCOP No.1906 of 2018 dated 01.03.2022 on the file of Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem.



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For Appellant : Mr.R.Navaneetha Krishnan
For Respondents : Ms.R.Sreevidhya for R2

JUDGMENT

The claimants not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.1906 of 2018, dated 01.03.2022, have filed this appeal seeking for enhancement of compensation.

2.The claimants who are the wife, minor daughter and mother of the deceased Srinivasan filed the claim petition on the ground that on 23.09.2018, the deceased Srinivasan was riding a two wheeler at Omalur-Mecheri road and at about 10.30 hours, when the vehicle was going near Panchanampatti road, the offending vehicle which was a car was driven in a rash and negligent manner and it dashed on the two wheeler. The deceased was thrown out of the vehicle and sustained grievous injuries and he died on the way to the hospital. 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.10,05,000/- under various

heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income [(10,000 x 12 x 11=)13,20,000 – 1/3 (4,40,000) =	8,80,000
2.	Loss of Love and Affection (20,000 x 3)	60,000
3.	Loss of Consortium	40,000
4.	Funeral Expenses	25,000
	Total	10,05,000

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.

6.Heard Mr.R.Navaneetha Krishnan, learned counsel appearing on behalf of the appellants and Ms.R.Sreevidhya, learned counsel appearing on behalf of the 2nd respondent.



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

8. The main issue that was canvassed by the learned counsel for the appellant relates to the notional monthly income that was fixed by the Tribunal. The deceased was aged about 51 years and it was claimed that the deceased was involved in agriculture and he was also a milk vendor and he was earning a sum of Rs.30,000/- every month. There was no proof regarding the avocation or the monthly income of the deceased. Therefore, the Tribunal fixed a sum of Rs.10,000/- as notional monthly income including future prospects. This notional monthly income fixed by the Tribunal is definitely on the lower side.

9. The accident had taken place in the year 2018 and the deceased has left behind three dependents. In view of the same, this Court is inclined to fix a sum of Rs.14,000/- as notional monthly income and 10% can be added toward future prospects. Thus, the compensation under the head of loss of dependency/income is calculated as follows:

$$\text{Rs.15,400} \times 12 \times 11 \times 1/3 = \text{Rs.13,55,200/-}$$



10. The Tribunal has only granted a sum of Rs.60,000/- under the head of loss of love and affection and Rs.40,000/- under the head of loss of consortium.

Both these heads can be consolidated and compensation under the head of loss of love and affection can be fixed at Rs.1,20,000/- (Rs.40,000 x 3).

11. The Tribunal has fixed a sum of Rs.25,000/- towards funeral expenses and the same is reduced to Rs.15,000/-. The Tribunal has not fixed any compensation under the head of loss of estate and this Court is inclined to fix 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.15,400 x 12 x 11 x 1/3 = Rs.13,55,200/-]	13,55,200
2.	Loss of Love and Affection (20,000 x 3)	1,20,000
3.	Loss of Estate	15,000
4.	Funeral Expenses	15,000
	Total	15,05,200



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13. The compensation awarded by the tribunal at Rs.10,05,000/- is enhanced to Rs.15,05,200/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.15,05,200/-, 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.5,00,200/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay period of 580 days as was ordered by this Court in C.M.P.No.3695 of 2024, dated 12.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. 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. No costs.

23.07.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To
The Motor Accident Claims Tribunal, Special District Judge,
MCOP Tribunal, Salem.



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N. ANAND VENKATESH., J

SSR

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