



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.642 of 2024

1.Malar

2.Adhilakshmi

..Appellant

.VS.

1.Manickam

2.The Manager,

The Oriental Insurance Co Ltd.,

No.32/312, Vijayalakshmi Complex, 13th Street,

Sathuvachari,

Vellore - 9.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and Decree dated 09.09.2019 and made in MACTOP No.552 of 2017 on the file of the Motor Accident Claims Tribunal, The Special Sub Court, Tiruvannamalai.

For Appellant : Ms.A.Subadra

For Respondents : Mr.Zakir Hussain for R2

JUDGMENT

The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed this appeal against the Award dated 09.09.2019 in MACTOP

No.552 of 2017 on the file of the Motor Accident Claims Tribunal, Tiruvannamali.



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2.The claimants are the widowed mother and the unmarried sister of the deceased VEDIYAPPAN. The deceased was travelling in his two wheeler on 24.05.2017 at about 6.30 p.m. near Chengam-Bangalore road and at that point of time, the offending vehicle owned by the 1st respondent was driven in a rash and negligent manner and it dashed on the two wheeler as a result of which, the deceased was thrown out of the vehicle and he sustained grievous injuries and he died on the spot. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for compensation.

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of the 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 offending vehicle. Having rendered this finding, the Tribunal had fixed the total compensation at Rs.11,01,000/- in the following manner:

Compensation awarded under the head	Amount (in Rs.)
Loss of Income (Rs.7500 + 40% x ½ x 12 x 17)	10,71,000
Loss of Estate	15,000
Funeral Expenses	15,000
Total	11,01,000



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4.The above compensation was directed to be paid with 7.5% interest. Aggrieved by the quantum of compensation fixed by the Tribunal, the claimants have filed the present appeal seeking for enhancement of compensation.

5.Heard Ms.A.Subadra, learned counsel appearing on behalf of the appellant and Mr.Zakir Hussain, learned counsel appearing on behalf of the 2nd respondent.

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

7.The deceased was working as a Mason during the relevant point of time. The Tribunal had fixed the notional income at Rs.7,500/- per month and added 40% towards future prospects. The notional income fixed by the Tribunal is on a lower side and considering the cost of living and also of the fact that the accident had taken place in the year 2017, this Court is inclined to fix the notional income at Rs.12,500/- and 40% future prospects can be added to Rs.17,500/- (Rs.12,500 + Rs.5000).

8.The Tribunal had deducted 50% towards personal expenditure of the deceased. In the instant case, the claimants are the widowed mother and the unmarried sister. Therefore, 1/3rd can be deducted towards personal expenditure of



the deceased, since both the claimants are dependent on the income earned by the deceased.

9. In the light of the above discussion, the compensation under the head of loss of income can be fixed at Rs.23,80,000/- (Rs.12,500/- + 40% x 1/3 x 12 x 17).

10. The Tribunal has not granted any compensation under the head of love and affection. Hence, this Court is inclined to grant compensation at the rate of Rs.40,000/- to each of the claimant and thus, the total compensation of Rs.80,000/- is granted under this head.

12. The compensation that has been granted under the other head can be sustained as it is.

13. In the light of the above discussion, the compensation awarded by the Tribunal is modified/enhanced as follows:

Compensation awarded under the head	Amount (in Rs.)
Loss of Income (Rs.12,500/- + 40% x 1/3 x 12 x 17)	23,80,000
Love and Affection	80000



Loss of Estate	15,000
Funeral Expenses	15,000
Total	24,90,000

14.The compensation awarded by the tribunal at Rs.11,01,000/- is enhanced to Rs.24,90,000/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.24,90,000/-, 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.13,89,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 756 days as was ordered by this Court in C.M.P.No.24309 of 2023, dated 28.02.2024. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

12.This Civil Miscellaneous Appeal is allowed in the above terms. No costs.

10.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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N. ANAND VENKATESH., J

ssr

To

The Motor Accident Claims Tribunal, The Special Sub Court, Tiruvannamalai.

CMA No.642 of 2024

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