



C.M.A.No.122 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.122 of 2024

Branch Manager,
M/s.United India Insurance Co. Ltd.,
Micro Office, Devasthanampudur,
Rasipuram Taluk,
Namakkal District 637 406.

...Appellant

Vs

1.Dhanam
2.C.Pannerselvam

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the above civil miscellaneous appeal and set aside the decree and judgment in OP.No.398 of 2019 dated 29.04.2022 passed by the Sub-Judge, Motor Accidents Claims Tribunal, Rasipuram.

For Appellant : Mr.S.Raghul,
for Ms.R.Rathna Thara
For Respondents : Mr.M.Lokesh,
for Mr.Ma.P.Thangavel for R1



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JUDGMENT

This civil miscellaneous appeal has been filed to set aside the judgement dated 29.04.2022 in OP.No.398 of 2019.

2. The learned counsel for the appellants would submit that on 10.11.2019, when the deceased was riding his two-wheeler bearing Registration No.TN34-H-4624 from Periyamanali to Rasipuram, a Tata ACE bearing Registration No.TN30-T-6324 came in a rash and negligent manner and dashed against the deceased, due to which he was died on the way to the Hospital. Considering all the aspects the Tribunal had awarded the following compensation:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Dependency	26,88,000
2	Loss of Estate	16,500
3	Funeral Expenses	16,500
4	Loss of Filial Consortium	44,000
	Total	27,65,000



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3. The learned counsel for the appellant would submit that the two issues involved in this appeal are as follows:

a) The first issue is with regard to the fixation of a sum of Rs.15,000/- as notional income, which is on higher side.

b) The second issue is with regard to awarding of compensation under the head the loss of dependency. Since the deceased was a bachelor, the Tribunal is supposed to have deducted $\frac{1}{2}$ towards the personal expenses of the deceased. However, it was wrongly deducted as $\frac{1}{3}$, which is contrary to the law laid down by the Hon'ble Apex Court.

4. In reply, as far as the deduction of $\frac{1}{3}$ towards the personal expenses of the deceased is concerned, the learned counsel for the respondent would fairly submitted that the Tribunal had wrongly deducted $\frac{1}{3}$ instead of $\frac{1}{2}$. Further, as far as the fixation of notional income is concerned, he would submit that the same is just and reasonable and requests this Court to confirm the same.



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5. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.

6. In the present case, since the accident occurred in the year 2019, the fixation of a sum of Rs.15,000/- appears to be just and reasonable and hence, this Court is inclined to confirm the same. However, since the deceased was a bachelor, the deduction of 1/3 towards the personal expenses of the deceased is contrary to the law laid down by the Hon'ble Apex Court. Hence, this Court is inclined to deduct 1/2 towards the personal expenses of the deceased. Accordingly, by applying multiplier as 16 and by adding future prospects as 40%, the loss of dependency would be calculated as follows:

$$\text{Rs.15,000 (notional income) + Rs.6,000 (future prospects) *16 (multiplier)} \\ *12 \text{ (months) * } 1/2 \text{ (dependency) = Rs.20,16,000/-}$$

7. Further, it appears that the compensation awarded under the other heads are just and reasonable. Hence, the same stands confirmed. Accordingly, the compensation awarded by the Tribunal is modified as follows:



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S.No	Particulars	Compensation awarded by the Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
1	Loss of Dependency	26,88,000	20,16,000
2	Loss of Estate	16,500	16,500
3	Funeral Expenses	16,500	16,500
4	Loss of Filial Consortium	44,000	44,000
	Total	27,65,000	20,93,000

8. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.20,93,000/-. Accordingly, the award amount stands reduced from a sum of Rs.27,65,000/- to Rs.20,93,000/-. In all other aspects, the award of the Tribunal stands confirmed.

9. In the result, this Civil Miscellaneous Appeal is partly allowed and the insurance company is directed to deposit a sum of Rs.20,93,000/- along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of OP.No.398 of 2019 on the file of the learned Sub-Judge, Motor Accidents Claims Tribunal, Rasipuram. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the respective bank accounts of the claimants by



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way of RTGS, in the same proportions determined by the Court below, within a period of 3 weeks from the deposit and from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

23.01.2024

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
nsa

To:

The Motor Accident Claims Tribunal,
Sub Court, Rasipuram.



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KRISHNAN RAMASAMY,J.

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