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Civil Miscellaneous Appeal No.1203 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1203 of 2024

1.Latha

W/o.Anandh @ Anandan

2.Minor Manikandan

S/o.Anandh @ Anandan

3.Minor Darshan

S/o.Anandh @ Anandan

4.Dhanalakshmi

M/o.Anandh @ Anandan

(petitioners 2 and 3 are minors represented
by their mother and next friend Mrs.Latha)

... Appellants

Vs.

1.R.Venkatesan

2.National Insurance Co. Ltd.,
Motor Third Party Claims,
No.66, 1st Floor, Greams Road,
Third Party HUB,
Chennai - 600 006.

3.Ganesh @ Ganesan

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor



Civil Miscellaneous Appeal No.1203 of 2024

Vehicles Act, 1988, against the judgment and decree dated 20.10.2023 made in M.C.O.P.No.5549 of 2019 on the file of Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

For Appellants : Mr.K.Varadha Kamaraj

For Respondents : Mr.C.Paranthaman [R2]

JUDGMENT

The claimants, who are the wife, children and mother of the deceased, not being satisfied the quantum of compensation awarded by the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai, in M.C.O.P.No.5549 of 2019, dated 20.10.2023, have filed this appeal.

2. The deceased Anandh @ Anandan was engaged in changing the punctured wheel of TATA Ace van on 11.09.2019 near Tambaram-Puzhal bye-pass road and at about 1.30 hours, the offending vehicle, which is a tanker lorry, dashed against the stationary vehicle and in its impact, the deceased sustained grievous injuries and he succumbed to the injuries on 19.09.2019. It is under these circumstances, the claim petition came to be



filed before the Tribunal seeking compensation.

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3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a categorical conclusion that the accident had taken place only due to the rash and negligent driving of the tanker lorry. After having come to such a conclusion, the Tribunal fixed the total compensation at Rs.28,76,512/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income/dependency	24,19,200/-
2.	Medical expenses	2,27,312/-
3.	Loss consortium	2,00,000/-
4.	Loss of estate	15,000/-
5.	Funeral expenses	15,000/-
	Total	28,76,512/-

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

4. The appellants/claimants, not being satisfied with the quantum of compensation awarded by the Tribunal, have filed the present appeal



seeking for enhancement of compensation.

5. Heard Mr.K.Varadha Kamaraj, learned counsel for appellants/claimants and Mr.C.Paranthaman, learned counsel for second respondent.

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

7. This Court also carefully went through the award passed by the Tribunal.

8. The main grievance expressed on the side of appellants is that the Tribunal has fixed the notional monthly income at Rs.12,000/-, which is on the lower side.

9. The accident had taken place in the year 2019 and the manner in which the accident had taken place shows that the deceased was a driver



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of a TATA Ace van. Ex.P8 - Driving Licence of the deceased also shows that the deceased had a valid driving licence. Hence, the notional income fixed by the Tribunal is on the lower side and this Court is inclined to increase the same to Rs.14,000/- p.m. and add 40% towards future prospects and the total compensation under the head 'loss of income' is calculated as follows:

Monthly Income	:	Rs. 14,000/-
Add: Future Prospects	:	Rs. 5,600/-
40% of Rs.14,000/-		-----
		Rs. 19,600/-
Annual Income	:	Rs. 2,35,200/-
(19,600 * 12)		
Less : Personal expenses		
Rs.2,35,200/- * 1/4	:	Rs. 58,800/-

		Rs. 1,76,400/-
Multiplier	:	x 16

Loss of income/dependency	:	Rs.28,22,400/-

10. The compensation awarded under the other heads is reasonable and it does not require the interference of this court.

11. In the light of the above discussion, this Court modifies the compensation in the following manner:

<i>Sl.</i>	<i>Compensation</i>	<i>Amount</i>	<i>Amount awarded</i>
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No.	<i>awarded under the head</i>	<i>by the Tribunal (in Rs.)</i>	<i>by this Court (in Rs.)</i>
1.	Loss of income/dependency	24,19,200/-	28,22,400/-
2.	Medical expenses	2,27,312/-	2,27,312/-
3.	Loss consortium	2,00,000/-	2,00,000/-
4.	Loss of estate	15,000/-	15,000/-
5.	Funeral expenses	15,000/-	15,000/-
	Total	28,76,512/-	32,79,712/-

12. The compensation awarded by the Tribunal at Rs.28,76,512/- is enhanced to Rs.32,79,712/-. The second respondent insurance company is directed to deposit the enhanced compensation, 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 six (6) weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.



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Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Chief Judge, Court of Small Causes,
Chennai.

N.ANAND VENKATESH, J.

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