



Civil Miscellaneous Appeal No.1869 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1869 of 2024

1. Pichammal

2. Kanagalakshmi

3. Ponnuthai

... Appellants

Vs.

1. The Principal,
Siddar Sivagnaani Arts and Science College,
Bommayar Palayam, Vanur Taluk,
Villupuram District,

2. Shriram General Insurance Company Limited,
Mookambigai Complex, 2A II Floor,
Near Kaveri Hospital, Lady Deshika Road,
Mylapore, Chennai -600 004

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgement dated 31.07.2023 in M.C.O.P.No.2516 of 2019 passed by the VI Small Causes Court, Chennai.



Civil Miscellaneous Appeal No.1869 of 2024

For Appellant : Mr.J.Ravi Kumar
For Respondents : Mr.T.S.Baskaran for R1
M/s.V.Pushpa for R2

JUDGMENT

The claimants, who are the wife and two daughters, not being satisfied with the quantum of compensation awarded by the Tribunal have filed this appeal challenging the award passed by VI Small Causes Court, Chennai in M.C.O.P.No.2516 of 2019 dated 31.07.2023.

2. The case of the claimants is that the deceased Ramasamy on 07.11.2018 was travelling in a moped in the ECR road and at about 5.00 p.m, he had reached Vennaguppattu Jammen Pannai and at that point of time, the offending vehicle which was a bus belonging to the 1st respondent college 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. An FIR came to be registered in Crime No.430 of 2018 against the



WEB COPY

driver of the offending vehicle. 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.

4. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.9,42,000/- under various heads as follows

:-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	Rs.7,92,000/-
2.	Loss of consortium to wife	Rs. 40,000/-
3.	Loss of amenities	Rs. 15,000/-
4.	Funeral expenses	Rs. 15,000/-
5.	Loss of love and affection to daughters	Rs. 80,000/-
	Total	Rs.9,42,000/-

5. The above compensation was directed to be paid by the



WEB COPY

Insurance company with interest at the rate of 7.5% per annum.

6. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed this appeal seeking for enhancement of compensation.

7. Heard Mr.J.Ravikumar, learned counsel for appellants/claimants and Mr.T.S.Baskaran, learned counsel for 1st respondent and M/s.V.Pushpa, learned counsel for 2nd respondent.

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

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

10. The main issue that was raised by the learned counsel for the appellants pertains to the notional monthly income that was fixed by the Tribunal. The case of the claimants is that the deceased was aged about



Civil Miscellaneous Appeal No.1869 of 2024

WEB COPY

56 years and he was a coolie earning a sum of Rs.700/- every day. There was no evidence available before the Tribunal regarding the avocation of the deceased and the income earned by him. Therefore, the Tribunal proceeded to fix the notional monthly income at Rs.10,000/- per month.

11. In the considered view of this Court, taking note of the fact that the accident had taken place in the year 2018 and the wife and the two daughters are the claimants in this case and also considering the age of the deceased, this Court is inclined to fix notional monthly income at Rs.15,000/- per month. Considering the age of the deceased, 10% can be added towards future prospects. Thus, the compensation under the head of loss of income / dependency is calculated as follows :-

Monthly Income	:	Rs. 15,000/-
Add: Future Prospects 10% of Rs.15,000/-	:	Rs. 1,500/- ----- Rs. 16,500/-
Annual Income (16,500 * 12)	:	Rs. 1,98,000/-
Less : Personal expenses Rs.1,98,000/- *1/3	:	Rs. 66,000/- ----- Rs. 1,32,000/-



WEB COPY



Civil Miscellaneous Appeal No.1869 of 2024

Multiplier : x 9

Loss of income/dependency : **Rs.11,88,000/-**

12. The compensation that has been granted under the other heads are reasonable and it does not require the interference of this Court.

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

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	Rs.11,88,000/-
2.	Loss of consortium to wife	Rs. 40,000/-
3.	Loss of amenities	Rs. 15,000/-
4.	Funeral expenses	Rs. 15,000/-
5.	Loss of love and affection to daughters	Rs. 80,000/-
	Total	Rs.13,38,000/-

14. The compensation awarded by the Tribunal at Rs.9,42,000/- is enhanced to Rs.13,38,000/-. The Insurance company is directed to deposit the enhanced compensation, less the amount already



Civil Miscellaneous Appeal No.1869 of 2024

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 is concerned, the deficit court fee, if not paid, shall be paid by the appellant. 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 allowed in the above terms. No costs.

30.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

rka

To, VI Small Causes Court, Chennai.

N.ANAND VENKATESH.,J

rka



WEB COPY



Civil Miscellaneous Appeal No.1869 of 2024

Civil Miscellaneous Appeal No.1869 of 2024

30.07.2024