



C.M.A.No.442 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2024

C O R A M

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

C.M.A.No.442 of 2024

Bhavani @ Sathiyabhavani

...Appellant

Vs

1.Vijayakumar

2.Divisional Manager,

The United India Insurance Company Ltd.,

No.46, Katpadi Road, Vellore.

Chinnammal (died)

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the award against the judgment and decree dated 18.06.2018 and made in MACTOP.No.982 of 2013 on the file of the Motor Accident Claims Tribunal, Spl Sub Court, Thiruvannamalai.

For Appellant : Mr.F.Terry Chella Raja

For Respondent : Ms.R.Sree Vidhya for R2



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JUDGMENT

This civil miscellaneous appeal has been filed challenging the quantum of compensation awarded by the Tribunal vide the decree and judgment dated 18.06.2018 and made in MACTOP.No.982 of 2013.

2. The learned counsel for the claimant would submit that on 11.10.2012, when one Manogaran was traveling in the Mini bus bearing Registration No.TN-32-N-0083 as a passenger at Ambalavarkattalai to Sundakudi Main road, due to the rash and negligent driving of the Mini Bus driver, he was thrown out of the bus and back wheel of the bus had ran over him, due to which he was died on the spot. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	13,10,472
2	Loss of Estate	15,000
3	Funeral Expenses	15,000
	Total	13,40,472



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3. He would submit that at the time of accident, the deceased was working as an agricultural worker-cum-auto driver. Without considering the said aspect, only a sum of Rs.6,500/- was fixed by the Tribunal as notional income of the deceased and the same is too low. Hence, he request this Court to re-determine the same. Further, he would fairly submit that since the compensation awarded under the other heads are just and fair, the same may be confirmed.

4. Ms.R.Sree Vidhya, learned counsel takes notice on behalf of the 2nd respondent and would submit that the compensation awarded by the Tribunal is just and reasonable and hence, he requests this Court to confirm the same.

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

6. In the present case, the only issue that has to be decided is with regard



to the quantum of compensation. The accident was occurred in the year 2012.

At the time of accident, the deceased was working as a Farmer-cum-Auto Driver, for which the Tribunal fixed the notional income as a sum of Rs.6,500/-, which appears to be too low. Hence, considering the year of accident, age and avocation of the deceased and the cost inflation, this Court feels that it would be appropriate to fix a sum of Rs.9,000/- as notional income of the deceased. Hence, by adding 40% towards future prospects and by applying 18 as multiplier and also by deducting 1/3rd towards the personal expenses of the deceased, the loss of income would be calculated as follows:

$$\begin{aligned} & \text{Rs.9,000/- (notional income) + Rs.3,600/- (40\% future prospects)} \\ & * 18 \text{ (multiplier)} * 12 \text{ (month)} * 2/3 \text{ (deduction towards personal expenses)} = \\ & \text{Rs.18,14,400/-} \end{aligned}$$

7. Further, since no amount was awarded towards Transportation and Loss of Consortium, this Court is inclined to award a sum of Rs.10,000/- towards Transportation and a sum of Rs.40,000/- towards Loss of Consortium.

8. Accordingly, the compensation awarded by the Tribunal is modified as follows:



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S.No.	Heads	Compensation awarded by Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
1	Loss of Income	13,10,472	18,14,400
2	Loss of Estate	15,000	15,000
3	Funeral Expenses	15,000	15,000
4	Loss of Consortium	Nil	40,000
5	Transportation	Nil	10,000
	Total	13,40,472	18,94,400

9. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.18,94,400/-. Accordingly, the award amount stands enhanced from a sum of Rs.13,40,472/- to Rs.18,94,400/-. In all other aspects, the award of the Tribunal stands confirmed.

10. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.18,94,400/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MACTOP.No.982 of 2013 on the file of the Motor Accident Claims Tribunal, Spl Sub Court, Thiruvannamalai. Further, as per the order dated 13.02.2024, the 2nd respondent shall not pay any interest for the delayed period of 1265 days in



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filing the present appeal. Upon such deposit, the Tribunal is directed to transfer the award amount to respective bank accounts of the claimants, by way of RTGS, within a period of three weeks from the deposit and receipt of the Bank details obtained from the claimant. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

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