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Civil Miscellaneous Appeal No.1684 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1684 of 2024

1.Sivaranjani
D/o.Sambasivam

2.Kamatchiammal
W/o.Munusamy

... Appellants

Vs.

1.Sambasivam
S/o.Anna Durai

(Since R1 remained *ex parte* before the Tribunal,
his presence may be dispensed with)

2.Divisional Manager,
United India Insurance Company Limited,
Claims Hub, No.81, Katpadi Road,
T.K.M.Complex, 2nd Floor,
Vellore - 632 004.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.07.2018 made in M.C.O.P.No.266 of 2017 on the file of Motor Accident Claims Tribunal, Special Sub Court, Thiruvannamalai.

For Appellant : Ms.A.Subadra

For Respondents : Mr.D.Bhaskaran [R2]



JUDGMENT

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The appellants/claimants, who are the daughter and mother of the deceased Anjalai, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Sub Court, Thiruvannamalai, in M.C.O.P.No.266 of 2017, dated 30.07.2018, have filed this appeal.

2. The case of the claimants is that the deceased Anjalai was an agriculturist as well as a coolie. On 25.01.2017, she was travelling in a two wheeler as a pillion rider, which was ridden by one Selvadurai at Thandarai to Panniyur Main Road. At about 05.00 p.m., the offending vehicle, a tractor and trailer, came in the opposite direction and it was driven in a rash and negligent manner and it dashed on the two wheeler. The deceased was thrown out of the two wheeler and she sustained fatal injuries and died on the spot. A First Information Report came to be registered in Crime No.37 of 2017 against the driver of the offending vehicle. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking 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. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.11,82,060/- 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	10,92,060/-
2.	Loss of love and affection - 1st petitioner	35,000/-
3.	Loss of love and affection - 2nd petitioner	25,000/-
4.	Loss of estate	15,000/-
5.	Funeral expenses	15,000/-
	Total	11,82,060/-

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

4. The claimants, not being satisfied with the quantum of compensation awarded by the Tribunal, have filed this appeal seeking enhancement of compensation.

5. Heard Ms.A.Subadra, learned counsel for appellants/claimants



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and Mr.D.Bhaskaran, learned counsel for second respondent insurance company.

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 issue raised by learned counsel for appellants is with regard to the notional monthly income fixed by the Tribunal. The claimants came up with a case that the deceased was an agriculturist as also a coolie and was earning about Rs.15,000/- p.m. There was no evidence available regarding the avocation and the monthly income earned by the deceased. The Tribunal had fixed the notional monthly income at Rs.6,500/- p.m., which is clearly on the lower side. Considering the fact that the accident had taken place in the year 2017 and even assuming that the deceased was a home maker, this Court is inclined to fix the notional monthly income at Rs.13,000/-. This Court must take into account that there was an unmarried daughter, who was dependant on the



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deceased and the husband of the deceased had predeceased her.

Considering the age of the deceased, 40% can be added towards future prospects. Thus, the compensation under the head 'loss of income/dependency' is calculated as follows:

Monthly Income	:	Rs. 13,000/-
Add: Future Prospects	:	Rs. 5,200/-
40% of Rs.13,000/-		-----
		Rs. 18,200/-
Annual Income	:	Rs. 2,18,400/-
(18,200 * 12)		
Less : Personal expenses		
Rs.2,18,400/- * 1/3	:	Rs. 72,800/-

		Rs. 1,45,600/-
Multiplier	:	x 15

Loss of income/dependency	:	Rs.21,84,000/-

9. The Tribunal had granted a total compensation of Rs.60,000/- under the head 'loss of love and affection'. The same can be consolidated into one head 'loss of love and affection' and this Court grants a sum of Rs.80,000/- under this head.

10. The compensation granted under the other heads is justified and does not require the interference of this Court.



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11. For the foregoing reasons, the compensation awarded by the Tribunal is modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of income	10,92,060/-	21,84,000/-
2.	Loss of love and affection - 1st petitioner	35,000/-	-
3.	Loss of love and affection - 2nd petitioner	25,000/-	-
4.	Loss of love and affection	-	80,000/-
5.	Loss of estate	15,000/-	15,000/-
6.	Funeral expenses	15,000/-	15,000/-
	Total	11,82,060/-	22,94,000/-

12. The compensation awarded by the Tribunal at Rs.11,82,060/- is enhanced to Rs.22,94,000/-. The second respondent insurance company is directed to deposit the compensation awarded by this Court, 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 of Rs.11,11,940/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 1217 days as was



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ordered by this Court in C.M.P.No.5091 of 2024 in C.M.A.Sr.No.29240 of 2022 dated 13.06.2024. 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.

16.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

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

N.ANAND VENKATESH, J.

gm



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