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C.M.A.No.3006 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3006 of 2024

1.V.Savithiriyamma
2.R.Venkatasami alias Venkatesh ... Appellants

Vs.

1.L.Balaji
2.The Branch Manager,
IFFCO-TOKIO General Insurance Company,
GSN Arcade, II Floor, near Vemala Kalyanamandapam,
Bye-pass Road, Hosur Town,
Hosur Taluk,
Krishnagiri District – 635 109. ... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decretal award passed by the (Motor Accidents Claims Tribunal) Additional District Judge, Hosur dated 29.04.2022 in M.C.O.P.No.305 of 2019.

For Appellants : Mr.S.Udhayakumar
For Respondents : M/s.R.Rathna Thara for R2

J U D G M E N T

This appeal has been filed by the appellants/ claimants



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challenging the order passed by the (Motor Accidents Claims Tribunal) Additional District Judge, Hosur dated 29.04.2022 in M.C.O.P.No.305 of 2019.

2.The learned counsel appearing for the appellants submitted that on 01.02.2017 at about 07.00 p.m., the deceased Ramesh was riding the motorcycle bearing Registration No.TN-70-C-7854 at Denkanikottai to Kelamangalam Road in front of Kelamangalam Abdul Majith Pakku Mandi. At that time, the driver of the Tempo traveller bearing Registration No.KA-01-D-1673 which came in the opposite direction, drove the vehicle in a rash and negligent manner and dashed against the motorcycle, due to which, the deceased died on the spot.

3.The learned counsel appearing for the appellants further submitted that thereafter, the parents of the deceased Ramesh/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.30 Lakhs as compensation for the death of Ramesh. After adjudication, the Tribunal awarded a sum of Rs.8,43,000/- as compensation along with interest at the rate of 7.5% per annum from the date of petition till the date of realization with proportionate costs and directed the second respondent to deposit



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the compensation and granted liberty to the second respondent to recover the same from the first respondent by directly filing execution proceedings. Aggrieved by the quantum of compensation, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants further submitted that the accident is of the year 2017, however, the Tribunal fixed the notional monthly income of the deceased as Rs.8,000/- and awarded a meagre compensation to the claimants and hence, the appellants are entitled for enhanced compensation.

5.Per contra, the learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent and perused the materials available on record.



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7.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.7,68,000/- for loss of dependency, Rs.40,000/- for parental consortium (first appellant), Rs.15,000/- for loss of estate, Rs.15,000/- for funeral expenses and Rs.5,000/- for transportation and arrived at a total compensation of Rs.8,43,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

9.The accident is of the year 2017. Hence, this Court fix a sum of Rs.15,000/- as the monthly notional income of the deceased. The Tribunal has not awarded any amount for future prospects and this Court is of the opinion that some amount has to be awarded for future prospects. Accordingly, this Court awards 40% of income towards future prospects. The Tribunal has rightly deducted 1/2 of the amount towards personal expenses and has rightly adopted the multiplier 16. Hence, the amount awarded for loss of dependency works out to



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Rs.20,16,000/- [Rs.15,000/- X 40% = Rs.6,000/-; Rs.15,000/- + Rs.6,000/- = Rs.21,000/-; Rs.21,000 X 1/2 = Rs.10,500/-; Rs.10,500/- X 12 X 16 = Rs.20,16,000/-].

10.The Tribunal has not awarded any amount towards loss of love and affection. Hence, this Court awards a sum of Rs.80,000/- (Rs.40,000/- each) towards loss of love and affection. The amount awarded under the head parental consortium (first appellant), in the opinion of this Court is not necessary and the same is deleted. The amount awarded under the other heads, in the opinion of this Court are just and reasonable and the same are confirmed.

11.Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of dependency	Rs.7,68,000/-	Rs.20,16,000/-
2.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
3.	Parental consortium (1 st appellant)	Rs. 40,000/-	---
4.	Loss of estate	Rs. 15,000/-	Rs. 15,000/-
5.	Transportation	Rs. 5,000/-	Rs. 5,000/-
6.	Loss of love and affection	---	Rs. 80,000/-
	Total	Rs.8,43,000/-	Rs.21,31,000/-



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12.The appellants/ claimants are entitled to total compensation of Rs.21,31,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

13.The civil miscellaneous appeal is partly allowed. The order passed in M.C.O.P.No.305 of 2019 dated 29.04.2022 by the (Motor Accidents Claims Tribunal), Additional District Judge, Hosur, is modified to the above extent.

14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants are permitted to withdraw their shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing/ representing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The



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(Motor Accidents Claims Tribunal), Additional District Judge, Hosur,
shall disburse the enhanced amount upon production of certified copy
showing proof of payment of Court fee by the appellants/ claimants.

15.The civil miscellaneous appeal is partly allowed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The (Motor Accidents Claims Tribunal),
Additional District Judge, Hosur.



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M.DHANDAPANI,J.
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