



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.3435 of 2024
and CMP No.28845 of 2024

National Insurance Co. Ltd.,
Durg Branch
Door No.10-B, SR Complex,
Rajamani Thottam, Bhavani Main Road,
NH 47 Sankari, Sankari Taluk,
Salem District.

... Appellant

Vs.

1. Purushothaman
2. P.Nagalakshmi
3. L.Venkatachalam
4. Nirmala

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated 16.11.2023 in MCOP No.127 of 2019 on the file of MACT, Special District Judge, Erode.

For Appellant : Mr.S.Vadivel

For Respondents : M/s.S.Kaithamalai Kumaran

JUDGMENT



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The appellant insurance company, aggrieved by the quantum of compensation dated 16.11.2023 in MCOP No.127 of 2019 on the file of MACT, Special District Judge, Erode.

2. The claimants who are the parents of the deceased Angappan filed the claim petition on the ground that the deceased Angappan on 25.01.2019 was walking on the Erode to Bhavani Main Road near Lakshmi Nagar in front of Surbhi Auto Spares and opposite to Mettur Bus stop from west to east, at that time, the third respondent, who is the driver of the lorry, driven in a rash and negligent manner, hit against the deceased and ran over him. Due to the said accident, the deceased Angappan died on the spot. An FIR came to be registered in Crime No.53 of 2019 against the driver of the offending vehicle. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation for the death of their son.

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



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negligent driving on the part of the driver of the offending vehicle.

Having rendered such a finding, the Tribunal proceeded to determine the compensation payable at Rs.22,12,000/- 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	21,00,000
2.	Loss of consortium	80,000
3.	Funeral exp.	15,000
4.	Loss of Estate	15,000
5.	Damages to clothes	2,000
	Total	22,12,000/-

The Tribunal directed the above compensation to be paid with interest at the rate of 7.5% p.a.

4. Questioning the quantum of compensation awarded by the Tribunal, the appellant insurance company has filed the present appeal.

5. The learned counsel for the appellant submitted that the claimants have not proved the employment of the deceased and his monthly income. Even then, the Tribunal has fixed the notional income at Rs.15,000/- which was very huge amount, which needs interference. Apart from that, the deceased was a divorcee, however, without



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considering the same, the Tribunal has deducted 1/3 amount towards personal expenses. This Court may modify the same.

6. The learned counsel for the claimants submitted that admittedly, the appellant was a divorcee and his wife has not filed any claim petition. Based on the evidence of PW2, who is the eyewitness, the Tribunal has fastened entire liability as against the appellant and awarded compensation to the claimants, which does not warrant any interference.

7. Heard the learned counsel for appellant insurance company and the learned counsel for respondents 1 and 2.

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. There are only two issues that were urged before this Court.



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The first issue is with regard to personal expenses fixed by the tribunal.

The second issue is with regard to the compensation that was awarded by the Tribunal under the head of “loss of love and affection”.

11. In the instant case, there is no dispute with regard to the fact that the deceased was a divorcee, the claimants are the parents. However, the Tribunal proceeded to deduct 1/3 amount instead of 1/2 from his income towards his personal expenses. In view of the same, the finding of the Tribunal requires the interference of this Court.

12. In the light of the above discussion, the compensation under the head of loss of income / dependency is calculated as follows :-

$$\text{Loss of Income /Dependency} = \text{Rs.15,000} + 25\% = \text{Rs.18,750/-}$$

$$= 18,750 \times 12 \times 14 \times 1/2$$

$$= 15,75,000/-$$

13. The next issue pertains to the compensation under the head of “loss of consortium”. The Tribunal has granted this compensation under three heads to the tune of Rs.40,000/- each to the claimants. This Court is inclined to modify the same to Rs.44,000/- each.



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

<i>S l. N o.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount modified by this Court (in Rs.)</i>
1.	Loss of dependency	21,00,000	15,75,000 /-
2.	Loss of consortium	80,000	88,000
3.	Funeral exp.	15,000	15,000
4.	Loss of Estate	15,000	15,000
5.	Damages to clothes	2,000	2,000
	Total	22,12,000/-	16,95,000

15. The compensation awarded by the Tribunal at Rs.22,12,000/- is reduced to Rs.16,95,000/-. The appellant insurance company is directed to deposit the reduced 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 weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

16. In the result, the Civil Miscellaneous Appeal is partly allowed.



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No costs. Consequently, connected miscellaneous petition is closed.

21.12.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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M.DHANDAPANI.,J

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To,
MACT (Sub Judge Court), Sathyamangalam.



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