



Civil Miscellaneous Appeal No.1121 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1121 of 2024

1.Savithiri

W/o.Sundram

2.Sundram

S/o.Kulandi Gounder

3.Satheeshkumar

S/o.Sundram

... Appellants

Vs.

1.S.Logambal

W/o.Sarvanan

2.M/s.United India Insurance Co.Ltd.,
Branch Office at No.77, Oriental Complex,
A.A.Street, Salem,
Having Divisional Office at No.1, TP Hub,
No.104-A, Ranga Building,
Peramanur Main Road,
Near Four Roads, Peramanur,
Salem.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.468 of 2019, dated 03.01.2022 on the file of Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem.



Civil Miscellaneous Appeal No.1121 of 2024

For Appellants : Mr.R.Navaneetha Krishnan

For Respondents : R1 - Set *ex parte*
R2 - Ms.Ratna Thara

JUDGMENT

The appellants/claimants, not being satisfied with the quantum of compensation awarded by the Tribunal in M.C.O.P.No.468 of 2019, dated 03.01.2022 on the file of Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem, has filed the present appeal.

2. The claimants are the father, mother and younger brother of the deceased Sakthivel. The case of the claimants is that on 20.11.2018, the deceased Sakthivel was riding a two wheeler in Salem-Attur main road and at about 13.45 hours, when the two wheeler was nearing Thillai Nagar Railway Gate, the offending vehicle owned by the first respondent 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 two wheeler and he sustained grievous injuries. Unfortunately, he succumbed to the injuries on the next day. It is under these circumstances, the claim petition came to be filed seeking for payment of compensation.



WEB COPY

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a categorical conclusion that the accident had taken place only due to the rash and negligent driving of the offending vehicle belonging to the first respondent. After having come to such a conclusion, the Tribunal fixed the total compensation at Rs.11,65,000/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income	10,80,000/-
2.	Loss of love and affection	60,000/-
3.	Funeral expenses	25,000/-
	Total	11,65,000/-

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

4. The appellants/claimants, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed the present appeal seeking for enhancement of compensation.

5. Heard Mr.R.Navaneetha Krishnan, learned counsel for appellants/claimants and Ms.Ratna Thara, learned counsel for second respondent.



WEB COPY

6. The main ground that was urged by learned counsel for appellants was that the deceased had completed E.C.E. course and he was working as a marketing executive and was earning nearly Rs.25,000/- p.m. However, the Tribunal has fixed the notional monthly income at Rs.10,000/- including future prospects, which is on the lower side. Learned counsel further submitted that even insofar as the head of loss of love and affection, the Tribunal had granted only a sum of Rs.20,000/- to each of the claimants, which is on the lower side.

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

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

9. In the instant case, the accident had taken place in the year 2018. The age of the deceased was determined as 25 years by relying upon Ex.P7 - Driving License of deceased. The qualification of the deceased for having completed E.C.E. course was determined by relying upon



Civil Miscellaneous Appeal No.1121 of 2024

Ex.P6 - Copy of Transfer Certificate. There was no material available before the Court to substantiate that the deceased was working as a marketing executive and was earning Rs.25,000/-. However, considering the year in which the accident had taken place and considering the qualification and the age of the deceased, this Court is inclined to fix the monthly income at Rs.15,000/-. This Court is also inclined to add 40% towards future prospects. In view of the same, the loss of income would be:

Monthly Income	:	Rs. 15,000/-
Add: Future Prospects	:	Rs. 6,000/-
40% of Rs.15,000/-		-----
		Rs. 21,000/-
Annual Income	:	Rs. 2,52,000/-
(21,000 * 12)		
Less : Personal expenses		
Rs.2,52,000/- * 1/2	:	Rs. 1,26,000/-

		Rs. 1,26,000/-
Multiplier	:	x 18

Loss of income/dependency	:	Rs.22,68,000/-

10. Insofar the compensation awarded under the head 'loss of love and affection', this Court is inclined to award Rs.40,000/- for each of the



11. 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 by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of income	10,80,000/-	22,68,000/-
2.	Loss of love and affection	60,000/-	1,20,000/-
3.	Funeral expenses	25,000/-	15,000/-
4.	Loss of estate	-	15,000/-
	Total	11,65,000/-	24,18,000/-

12. The compensation awarded by the Tribunal at Rs.11,65,000/- is enhanced to Rs.24,18,000/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of



Civil Miscellaneous Appeal No.1121 of 2024

WEB COPY

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.12,53,000/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 663 days as was ordered by this Court in C.M.P.No.7358 of 2024 in C.M.A.Sr.No.35536 of 2024 dated 22.04.2024. 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.

06.06.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

gm

To

The Motor Accident Claims Tribunal,
Special District Judge, MCOP Tribunal,
Salem.



WEB COPY



Civil Miscellaneous Appeal No.1121 of 2024

N.ANAND VENKATESH, J.

gm

Civil Miscellaneous Appeal No.1121 of 2024



WEB COPY



Civil Miscellaneous Appeal No.1121 of 2024

06.06.2024