



Civil Miscellaneous Appeal No.1205 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1205 of 2024

1.Prabhavathi
W/o.Late Mohanraj

2.Tamilselvi
W/o.Late Rajendran

... Appellants

Vs.

1.S.Palanisamy
S/o.Sadaiyan

2.C.Sankar
S/o.Chinnasamy

3.M/s.Iffco-Tokio General Insurance Company Limited,
Having issuing office at
GSN Arcade, 2nd Floor, Near Vemala Kalyanamandapam,
Bypass Road, Hosur,
Having Branch office at
Srinivasam Arcade, 1st Floor,
No.9/4, Advaita Ashram Road, Salem.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 21.09.2022 made in M.C.O.P.No.818 of 2019 on the file of Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem.



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For Appellants : Mr.R.Navaneetha Krishnan

For Respondents : Ms.R.Rathna Thara [R3]

JUDGMENT

The claimants, who are the wife and mother of the deceased, not being satisfied the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem, in M.C.O.P.No.818 of 2019, dated 21.09.2022, have filed this appeal.

2. The case of the claimants is that the deceased Mohanraj was riding a two wheeler on 31.12.2018 at Mecheri-Thoppur main road and at about 12.05 hours, when the vehicle was approaching the place of occurrence, the offending vehicle, a Bolero Maxi truck, which was owned by the second respondent, was driven by the first respondent in a rash and negligent manner and as a result, the offending vehicle dashed the two wheeler and the deceased was thrown out of the two wheeler and he sustained grievous injuries and unfortunately, he succumbed to the injuries on 06.01.2019. 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



categorical conclusion that the accident had taken place only due to the rash and negligent driving of the Bolero Maxi truck. After having come to such a conclusion, the Tribunal fixed the total compensation at Rs.16,40,000/- 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/dependency	13,60,000/-
2.	Medical expenses	1,75,000/-
3.	Loss of love and affection	40,000/-
4.	Loss of consortium	40,000/-
5.	Funeral expenses	25,000/-
	Total	16,40,000/-

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, have filed the present appeal seeking for enhancement of compensation.

5. Heard Mr.R.Navaneetha Krishnan, learned counsel for appellants/claimants and Ms.R.Rathna Thara, learned counsel for third



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 grievance expressed on the side of the appellants is with regard to the notional monthly income that was fixed by the Tribunal. The Tribunal had fixed the monthly income at Rs.10,000/- p.m. including future prospects.

9. In the considered view of this Court, the notional income fixed by the Tribunal is on the lower side. The accident had taken place during December 2018 and the deceased was aged about 27 years and he is said to be working as a building contractor earning monthly income of Rs.40,000/-. There was no proof regarding the avocation or the monthly income of the deceased. Therefore, the Tribunal fixed the monthly income



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at Rs.10,000/-. This Court is inclined to increase the notional monthly income to Rs.13,000/- and add 40% towards future prospects. Thus, the compensation under the head 'loss of income' 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 17

Loss of income/dependency	:	Rs.24,75,200/-

10. The Tribunal has fixed the compensation at Rs.25,000/- under the head 'funeral expenses' and the same is reduced to Rs.15,000/-. This Court finds that no compensation has been awarded under the head 'loss of estate' and hence, a sum of Rs.15,000/- is awarded under this head.

11. The compensation awarded under the other heads is reasonable and it does not require the interference of this court.

12. 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/dependency	13,60,000/-	24,75,200/-
2.	Medical expenses	1,75,000/-	1,75,000/-
3.	Loss of love and affection	40,000/-	40,000/-
4.	Loss of consortium	40,000/-	40,000/-
5.	Funeral expenses	25,000/-	15,000/-
6.	Loss of estate	-	15,000/-
	Total	16,40,000/-	27,60,200/-

13. The compensation awarded by the Tribunal at Rs.16,40,000/- is enhanced to Rs.27,60,200/-. The third 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 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.11,20,200/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 400 days as was ordered by this Court in C.M.P.No.7059 of 2024 in C.M.A.Sr.No.35537 of 2024 dated 25.04.2024. Insofar as the enhanced compensation is concerned, the



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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.

11.06.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

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

N.ANAND VENKATESH, J.

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