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Civil Miscellaneous Appeal No.1920 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1920 of 2024

1.Santhi

W/o.Anbarasan

2.Aravind Dinesh

S/o.Anbarasan

3.Banu Prathap

S/o.Anbarasan

4.Siddharth

S/o.Anbarasan

... Appellants

Vs.

1.R.Shanthosh

S/o.Ramesh

2.M/s.The Oriental Insurance Co. Limited,

Divisional Office at Siva Complex,

II Floor, No.22C, Saradha College Main Road,

Salem District.

3.M.Kumar

S/o.Muthusamy

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.02.2023



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made in M.C.O.P.No.639 of 2021 on the file of Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem.

For Appellants : Mr.R.Navaneetha Krishnan

For Respondents : Mrs.R.Sreevidhya [R2]

JUDGMENT

The appellants/claimants, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem, in M.C.O.P.No.639 of 2021, dated 01.02.2023, has filed this appeal.

2. The case of the claimants is that the deceased Anbarasan was riding a two wheeler on 31.08.2020 at Omalur to Mecheri main road and at about 8.45 hours, when the two wheeler was proceeding near the parakalur bus stop, the offending vehicle, a Mahindra Maxi Cab, was driven in a rash and negligent manner, which was coming from the opposite direction and dashed on the two wheeler. The deceased was thrown out of the vehicle and he sustained grievous injuries and he died on the way to hospital. A First Information Report was registered against the driver of the offending vehicle in Crime No.801 of 2020. 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.7,35,000/- 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	6,30,000/-
2.	Loss of love and affection	80,000/-
3.	Funeral expenses	25,000/-
	Total	7,35,000/-

The above compensation was directed to be paid along 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 this appeal seeking enhancement of compensation.



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5. Heard Mr.R.Navaneetha Krishnan, learned counsel for appellants/claimants and Mrs.R.Sreevidhya, learned counsel for second respondent insurance company.

6. This Court carefully considered the submissions made by learned counsel on either side and the materials available on record.

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

8. The grounds raised by learned counsel for appellants touched upon the notional income fixed by the Tribunal while fixing the compensation under the head 'loss of income' and also the compensation fixed under the head 'loss of love and affection'.

9. The deceased, in this case, was aged about 62 years. The accident had taken place on 31.08.2020. The deceased left behind his wife and three sons, who are all major. There was no proof regarding the avocation and the income earned by the deceased. The Tribunal,



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therefore, fixed the notional monthly income at Rs.10,000/-. This Court is inclined to fix a sum of Rs.13,500/- considering the fact that the deceased was aged about 62 years. There is no scope for adding anything towards future prospects. Thus, the compensation under the head 'loss of income/dependency' is calculated as follows:

Monthly Income	:	Rs. 13,500/-
Annual Income (13,500 * 12)	:	Rs. 1,62,000/-
Less : Personal expenses Rs.1,62,000/- * 1/3	:	Rs. 54,000/-

		Rs. 1,08,000/-
Multiplier	:	x 7

Loss of income/dependency	:	Rs.7,56,000/-

10. The Tribunal has fixed only a sum of Rs.80,000/- under the head 'loss of love and affection' and this Court is inclined to enhance the same to Rs.1,60,000/- [40,000 * 4]. The compensation of Rs.25,000/- awarded under the head 'funeral expenses' is reduced to Rs.15,000/-. This Court finds that no sum has been granted towards loss of estate and hence, a sum of Rs.15,000/- is granted under the head 'loss of estate'.



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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	6,30,000/-	7,56,000/-
2.	Loss of love and affection	80,000/-	1,60,000/-
3.	Funeral expenses	25,000/-	15,000/-
4.	Loss of estate	-	15,000/-
	Total	7,35,000/-	9,46,000/-

12. The compensation awarded by the Tribunal at Rs.7,35,000/- is enhanced to Rs.9,46,000/-. 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.2,11,000/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 266 days as was ordered by this Court in C.M.P.No.6594 of 2024 in C.M.A.Sr.No.35541 of 2024 dated 26.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the



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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.

01.08.2024

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.



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N.ANAND VENKATESH, J.

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