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CMA.No.1668 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

CMA.No.1668 of 2022

1. Indira
2. Venkatramani (died)
3. Dhanasekaran

Appellant

Vs

1. S.Selvaraj
2. United India Insurance Company Limited
Dharmapuri

Respondents

Prayer:- This Civil Miscellaneous Appeal has been filed, against the judgement and decree, dated, 26.04.2016, made in MCOP.No.2559 of 2014, by the Special District Judge (MACT) Dharmapuri.

For Appellants : Mr.D.Ramesh Kumar

For Respondents : Mr.R.Rajesh-R2

JUDGEMENT

1. This Civil Miscellaneous Appeal has been filed, by the claimants, challenging the quantum of compensation, awarded by the judgement and decree, dated, 26.04.2016, made in MCOP.No.2559 of 2014, by the Special District Judge (MACT) Dharmapuri.
2. The claimants, who are the mother, father and brother of the deceased Murali, have filed the claim petition before the Tribunal, seeking a compensation of Rs.50,00,000/- on various heads, for the death of the



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deceased, who died in a motor road accident, which took place on 07.08.2013. The 1st Respondent herein/owner of the offending vehicle remained exparte. The claim petition was resisted, on various grounds, by the 2nd Respondent/ Insurance Company, by filing a counter. On the side of the claimants, PW.1 to PW.5 were examined and Ex.P1 to Ex.P27 were marked. On the side of the 2nd Respondent Insurance Company, DW.1 was examined and no document was marked.

3. Finding that the accident had occurred only due to the rash and negligent driving of the driver of the offending vehicle belonged to the 1st Respondent and insured with the 2nd Respondent, the Tribunal has awarded a total compensation of Rs.11,22,000/-, on various heads, with interest at 7.5% p.a. from the date of the claim petition till the date of realization, to be paid by the 2nd Respondent Insurance Company, as detailed below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Income (9000x(50/100)x12x18)	972000
2	Loss of Love and Affection	100000
3	Transportation Expenses	25000
4	Funeral Expenses	25000
Total Compensation		1122000

Aggrieved by the quantum of compensation, this appeal has been filed by the claimants.

4. This Court heard the learned counsel for the Appellants and the 2nd Respondent Insurance Company, considered their submissions and also perused the entire materials placed on record.
5. Since there is no quarrel over the negligence aspect and the dispute is only



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with regard to the quantum of compensation, the finding of the Tribunal with respect to the negligence aspect is confirmed and also, it is not necessary to narrate the entire facts in detail in respect of the accident.

6. According to the learned counsel for the Appellants, at the time of the accident, the deceased was ITI Student and a bachelor, aged about 19 years old and the accident had occurred in the year 2013 and hence, the monthly notional income arrived at Rs.6000/- by the Tribunal appears to be on the lower side and hence, it is to be redetermined and enhanced, since even for a vegetable vendor who died in an accident of the year 2018, the Honourable Supreme Court, in one of its decisions, has fixed the monthly notional income of the deceased at Rs.8000/-. Further, no compensation under the head of loss of estate was awarded by the Tribunal and since it is a fatal case, fair and just compensation under the said head is to be awarded. The 2nd Respondent pleads for confirmation of the award.

7. Considering the nature of the avocation as claimed by the claimants and since the accident had occurred in the year 2013, it would be appropriate to fix the monthly notional income of the deceased at Rs.9,000/-. After adding 40% future prospects and deducting 50% towards personal expenses, the monthly income would come to Rs.6,300/-. Since the deceased was aged 19 years old at the time of the accident, the proper multiplier would be 18. Thus, the compensation under the loss of income is determined at Rs.13,60,800/- $(9000+3600) \times 1/2 \times 12 \times 18$.

8. The compensation amounts of Rs.1,00,000/- under the head of loss of love



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and affection, Rs.25,000/- towards transportation expenses and Rs.25,000/- towards funeral expenses as awarded by the Tribunal are on the higher side and hence, the same are reduced to Rs.40,000/-, Rs.10,000/- and Rs.15,000/- respectively. However, it is seen that no compensation was awarded by the Tribunal under the head of loss of estate, though it is a fatal case. Hence, a sum of Rs.15,000/- is hereby awarded under the head of loss of estate. In all, the total compensation is redetermined at Rs.14,40,800/-, which shall carry interest 7.5% p.a. from the date of the claim petition till the date of realisation.

9. In fine, this Civil Miscellaneous Appeal is partly allowed. Since the 2nd claimant, who is the father of the deceased, died and the 3rd claimant is the brother of the deceased, the 1st claimant alone is entitled to a total compensation of Rs.14,40,800/-, (Rupees fourteen lakhs forty thousand either hundred only) with interest 7.5% p.a. from the date of the claim petition till the date of realisation, as redetermined below:-

S.No	Category	Award Amount (Rs.)
1	Loss of Income $(9000+3600) \times 1/2 \times 12 \times 18$	1360800
2	Loss of Love and Affection	40000
3	Transportation Expenses	10000
4	Funeral Expenses	15000
5	Loss of Estate	15000
Total Compensation		1440800

The 1st claimant shall pay proper court fee for the enhanced compensation amount. The 2nd Respondent / Insurance Company is directed to deposit the entire award amount with interest at 7.5% p.a. from the date of the claim petition till the date of deposit, after deducting the amount, if any already,



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deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the Tribunal is directed to transfer, by way of RTGS, the entire compensation amount with interest directly to the bank account of the 1st claimant, within a period of three weeks thereafter.

No costs.

30.01.2024

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Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Srcm

To

1. The the Special District Judge (MACT) Dharmapuri
2. The Record Keeper, VR Section, High Court, Madras



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KRISHNAN RAMASAMY, J.

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