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Civil Miscellaneous Appeal No.1717 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1717 of 2024

S.Ramaiya @ Ramaiyan

... Appellant

Vs.

1. P.Sathish Kumar

2. Magna HDI General Insurance Co. Limited,
No.98/99, 2nd Floor,
New No.140/150, Luz Church Road,
Mylapore, Chennai 600 004

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order in M.C.O.P.No.3954 of 2018 dated 15.12.2022 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Cuddalore.

For Appellant : Mrs.Ramya V Rao

For Respondents : M/s.R.Sreevidhya for R2



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JUDGMENT

The claimants not being satisfied with the quantum of compensation has filed this appeal challenging the award passed by the Motor Accident Claims Tribunal /Principal District Judge, Cuddalore in M.C.O.P No.3954 of 2018 dated 15.12.2022.

2. The original claimants were the parents of the deceased Bakthavatchalam and they filed the claim petition on the ground that the deceased Bakthavatchalam on 28.04.2018 was engaged in the work of laying thar road and at about 5.30 p.m, the offending vehicle, which was a tipper lorry was driven in a rash and negligent manner and this vehicle was reversed without noticing the deceased. As a result of which, the lorry ran over the deceased. The deceased died on the same day. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary



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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.

4. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.22,98,000/- 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 (21,000 x 12 x 50% x 18)	Rs.22,68,000/-
2.	Funeral expenses	Rs. 15,000/-
3.	Loss of estate	Rs. 15,000/-
	Total	Rs.22,98,000/-

The above compensation was directed to be paid with interest at the rate of 8% per annum.

5. During the pendency of the claim petition, the father of the deceased died leaving behind the mother alone to prosecute the



6. The mother of the deceased not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

7. Heard Mrs.Ramya V Rao, learned counsel for appellants/ claimants and Mrs.R.Sreevidhya, learned counsel for 2nd respondent / Insurance company.

8. This Court has 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. The main ground that was urged by the learned counsel for the appellant is with regard to the notional monthly income that was fixed by the Tribunal at Rs.15,000/-. The learned counsel for



appellant submitted that PW3 was examined and Ex.C1 to C5 were marked to prove the fact that the deceased was earning atleast a sum of Rs.1,000/- every day and in addition, he was also getting the batta. The learned counsel submitted that the Tribunal went wrong in fixing the monthly income of the deceased at Rs.15,000/-.

11. The Tribunal has taken into consideration the occupation of the deceased and also the evidence of PW2 along with Ex.C1 to C5. The Tribunal found that the claimant was not able to prove that the deceased was earning a sum of Rs.20,000/- every month. Hence, the Tribunal fixed a sum of Rs.15,000/- as notional monthly income of the deceased. This finding of the Tribunal does not suffer from any illegality and it does not require the interference of this Court.

12. The Tribunal has not granted any compensation under the head of loss of love and affection. This Court is inclined to fix a sum of Rs.80,000/- under this head. Even though the father of the deceased died during the pendency of the claim petition, the sum of Rs.40,000/- is granted to him under this head will become a part of his estate and the



mother is entitled to take the same.

13. The compensation that has been granted under the other heads are reasonable and it does not require the interference of this Court.

14. 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 (in Rs.)</i>
1.	Loss of Income (21,000 x 12 x 50% x 18)	Rs.22,68,000/-
2.	Funeral expenses	Rs. 15,000/-
3.	Loss of estate	Rs. 15,000/-
4.	Loss of love and affection	Rs. 80,000/-
		Rs.23,78,000/-

15. The compensation awarded by the Tribunal at Rs.22,98,000/- is enhanced to Rs.23,78,000/-. The 2nd respondent Insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a.



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from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.80,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay of 365 days as was ordered by this Court in C.M.P.No.7249 of 2024, dated 24.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. 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 allowed in the above terms. No costs.

19.07.2024

Speaking Judgment/Non-speaking Judgment
Index : Yes/No
Neutral citation: Yes/No
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N.ANAND VENKATESH.,J
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To,

Motor Accident Claims Tribunal / Principal District Judge, Cuddalore.

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