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Civil Miscellaneous Appeal No.1202 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.1202 of 2024

1.Leelavathi

W/o.Durairaj

2.Durairaj

S/o.Chinnakulanthai Poosari

... Appellants

Vs.

1.K.Muthaiyan

S/o.Kandasamy Gounder

2.M/s.United India Insurance Co. Ltd.,

Having Divisional Office at No.1, TP Hub,

No.104-A, Ranga Building,

Peramaur 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.556 of 2021, dated 01.08.2022, on the file of Motor Accident Claims Tribunal, Special District Judge, MCOP Tribunal, Salem.

For Appellants : Mr.R.Navaneetha Krishnan

For Respondents : Ms.Rathnathara [R2]



JUDGMENT

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The claimants, who are the parents of the deceased, 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.556 of 2021, dated 01.08.2022, have filed this appeal.

2. The case of the claimants is that the deceased Ananthakeerthan was travelling as a pillion rider in a two wheeler on 21.10.2020 and when the vehicle was approaching a petrol bunk at Mettur-Mecheri main road, the offending vehicle, a lorry, which was owned by the first respondent was driven in a rash and negligent manner and hit the two wheeler and in its impact, the deceased was thrown out of the vehicle and he sustained grievous injuries all over his body and unfortunately, he succumbed to the injuries. It is under these circumstances, the claim petition came to be filed by the parents of the deceased 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 lorry. After having come to such a



conclusion, the Tribunal fixed the total compensation at Rs.11,45,000/-

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	40,000/-
3.	Funeral expenses	25,000/-
	Total	11,45,000/-

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.Rathnathara, learned counsel for second respondent.

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



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

8. The claimants came up with a specific case that the deceased was engaged in the avocation of a tailor and was earning a sum of Rs.20,000/- per month. There was no proof before the Tribunal that the deceased was undertaking the avocation of a tailor and was earning any income. Hence, the Tribunal fixed the notional monthly income at Rs.10,000/- including future prospects.

9. The accident had taken place in the year 2020 and the deceased was aged about 23 years at the time of accident. Therefore, considering the price index and the cost of living, this Court is inclined to fix the monthly income at 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/-



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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/- * 1/2	:	Rs. 1,09,200/-

		Rs. 1,09,200/-
Multiplier	:	x 18

Loss of income/dependency	:	Rs.19,65,600/-

10. The Tribunal has awarded compensation of Rs.20,000/- to each of the parent under the head of 'loss of love and affection'. This is on the lower side and hence, this Court is inclined to fix a sum of Rs.40,000/- to each of the claimant under this head. The compensation fixed under the head 'funeral expenses' is on the higher side and it is reduced to Rs.15,000/-. The Tribunal has not awarded any compensation under the head 'loss of estate' and this Court is inclined to award a sum of Rs.15,000/- under this head.

11. In the light of the above discussion, this Court modifies the compensation in the following manner:

<i>Sl.</i>	<i>Compensation</i>	<i>Amount</i>	<i>Amount awarded</i>
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<i>No.</i>	<i>awarded under the head</i>	<i>by the Tribunal (in Rs.)</i>	<i>by this Court (in Rs.)</i>
1.	Loss of income	10,80,000/-	19,65,600/-
2.	Loss of love and affection	40,000/-	80,000/-
3.	Funeral expenses	25,000/-	15,000/-
4.	Loss of estate	-	15,000/-
	Total	11,45,000/-	20,75,600/-

12. The compensation awarded by the Tribunal at Rs.11,45,000/- is enhanced to Rs.20,75,600/-. 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 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.9,30,600/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 460 days as was ordered by this Court in C.M.P.No.7340 of 2024 in C.M.A.Sr.No.39511 of 2024 dated 25.04.2024. 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.



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costs.

In the result, the Civil Miscellaneous Appeal is partly allowed. No

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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