



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1347 of 2024

1.Valli

2.Deepa

3.Ishwarya

4.Minor.Sakthivel

5.Venkattamma

..Appellants

.vs.

1.D.Mani

2.M/s.IFFCO TOKIO
General Insurance Co., Ltd.,
Rep. by Branch Manager,
Office situated at 28,
North Usman Road,
Chennai – 600 017.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and Decree dated 01.12.2023 made in MCOP No.666 of 2022 on the file of the Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

For Appellants : Mr.S.P.Yuvaraj

For Respondents : Mr.J.Michael Visuvasam



JUDGMENT

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The claimants who are the wife, daughters, minor son and the mother of the deceased Muniraj not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.666 of 2022, dated 01.12.2023 have filed this appeal seeking for enhancement of compensation.

2.The case of the claimants is that the deceased Muniraj was travelling in his two wheeler on 18.02.2022 at Royakottai-Hosur road and at about 14:00 hours when he was proceeding towards Lingampatti bus stop, the offending vehicle was driven in a rash and negligent manner and it hit on the rear side of the two wheeler. As a result of which, the deceased was thrown out of the vehicle and he sustained grievous injuries and he succumbed to the injuries. An FIR came to be registered in Crime No.42 of 2022. 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 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 fixed the

total compensation at Rs.21,43,000/- under various heads as follows:



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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Dependency	18,90,000
2.	Loss of Estate	16,500
3.	Funeral Expenses	16,500
4.	Loss of Consortium (Rs.44,000 x 5)	2,20,000
	Total	21,43,000

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5.The claimants not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal before this Court seeking for enhancement of compensation.

6.Heard Mr.S.P.Yuvaraj, learned counsel appearing on behalf of the appellants and Mr.J.Michael Visuvasam, learned counsel appearing on behalf of the 2nd respondent.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.



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8.The bone of contention is with regard to the notional monthly income that was fixed by the Tribunal. The claimants came up with a case that the deceased who was aged about 44 years was an agriculturist and he was selling vegetables in the market and he was earning a sum of Rs.30,000/- per month. There was no proof to substantiate this stand taken by the claimants. The Tribunal had fixed the notional monthly income at Rs.12,000/- per month.

9.The accident had taken place in the year 2022 and the claimant was aged about 44 years and he was supporting a family consisting of five dependants. Therefore, this Court is inclined to fix the notional monthly income at Rs.17,000/-. Thus, the compensation under the head of loss of dependency is calculated as follows:

$$\text{Rs.17,000} + \text{Rs.4,250 (25\%)} \times 12 \times 14 \times 1/4 = \text{Rs.26,77,500/-}$$

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

11.In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:



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S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Dependency	26,77,500
2.	Loss of Estate	16,500
3.	Funeral Expenses	16,500
4.	Loss of Consortium (Rs.44,000 x 5)	2,20,000
	Total	29,30,500

12.The compensation awarded by the tribunal at Rs.21,43,000/- is enhanced to Rs.29,30,500/-. 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 four weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. 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.

26.06.2024

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

SSR

To

The Motor Accident Claims Tribunal, Special District Court, Krishnagiri.

CMA No.1347 of 2024

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