



Civil Miscellaneous Appeal No.1240 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 12.06.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**Civil Miscellaneous Appeal No.1240 of 2024**

1.Santha  
W/o.Chandran

2.Sathish  
S/o.Chandran

3.Rathish  
S/o.Chandran

... Appellants

Vs.

1.Ganesan  
S/o.Nanjappan

2.Varadharaj  
S/o.Aruchamy

3.M/s.National Insurance Company Limited,  
No.684, Trichy Road,  
Coimbatore - 641 005.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 21.08.2023 passed in M.C.O.P.No.239 of 2020 on the file of Motor Accident Claims Tribunal/ IV Additional District Court at Coimbatore.

For Appellants : Mr.K.Myilsamy



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For Respondents : Mr.J.Micheal Visuvasam [R3]

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### **JUDGMENT**

The claimants, who are the wife and sons of the deceased, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal/ IV Additional District Court, Coimbatore, in M.C.O.P.No.239 of 2020, dated 21.08.2023, have filed this appeal.

2. The case of the claimants is that the deceased Chandran, who was aged about 49 years, was riding a two wheeler on 10.12.2019 in Chettipalayam to Podanur road. The first appellant, who is the wife of the deceased, was the pillion rider. When the vehicle was going near Vadivu Nagar, the offending vehicle, which was a Swift Dzire car was driven by the first respondent in a rash and negligent manner and it dashed on the two wheeler, as a result of which the deceased was thrown out of the vehicle and he sustained grievous injuries. Unfortunately, he succumbed to the injuries on 17.12.2019. A First Information Report also came to be registered in Crime No.270 of 2019 against the first respondent, who was the driver of the offending vehicle. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.



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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 car. After having come to such a conclusion, the Tribunal fixed the total compensation at Rs.14,35,686/- under various heads as follows:

| <i><b>Sl. No.</b></i> | <i><b>Compensation awarded under the head</b></i> | <i><b>Amount (in Rs.)</b></i> |
|-----------------------|---------------------------------------------------|-------------------------------|
| 1.                    | Loss of dependency                                | 12,35,052/-                   |
| 2.                    | Loss of consortium                                | 1,20,000/-                    |
| 3.                    | Medical bills (As per Ex.P13)                     | 50,634/-                      |
| 4.                    | Loss of estate                                    | 15,000/-                      |
| 5.                    | Funeral expenses                                  | 15,000/-                      |
|                       | <b>Total</b>                                      | <b>14,35,686/-</b>            |

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.



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5. Heard Mr.K.Myilsamy, learned counsel for appellants/claimants and Mr.J.Micheal Visuvasam, learned counsel for third respondent.

6. Learned counsel for appellants questioned the monthly income that was fixed by the Tribunal by disregarding Exs.P10 and P11, which were marked to establish the fact that the deceased was working as a Public Health Worker in the Perur Town Panchayat and was earning a monthly salary of nearly Rs.24,500/-. The Tribunal proceeded to fix the notional monthly income at Rs.9,500/- p.m. Learned counsel also contended that the deceased was a permanent worker with a fixed monthly salary and therefore, the future prospects must be taken as 30% instead of 25% by relying upon the judgment of the Apex Court in ***Pranay Sethi and others vs. National Insurance Company Limited [(2017) 2 TNMAC 609 (SC)]***.

7. Learned counsel for third respondent insurance company submitted that the Tribunal has properly appreciated the evidence and has come to the conclusion that the employer was not examined in this case



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and therefore, Exs.P10 and P11 cannot be relied upon and proceeded to fix the notional monthly income. It was further contended that the future prospects fixed by the Tribunal is in order and it does not require the interference of this Court.

8. This Court 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. Ex.P10 is the copy of the ID card issued by the Municipal Administration and Water Supply Department belonging to the Perur Town Panchayat. Ex.P11 is series of three documents which are pay slips issued to the deceased for the months of September, October and November 2019. These documents were marked through the wife, who is PW-1 in this case. If documents pertaining to some private concern is brought on record, it will always be left open to the Tribunal to insist for examining someone from the private concern in order to establish the



authenticity of the documents relied upon. In the case in hand, the deceased was not working in any private concern and he was employed by the Perur Town Panchayat as a Public Health Worker. There is nothing to show that Exs.P10 and P11 are fabricated documents. If that is so, then the respondents would have taken steps to prove that those documents cannot be relied upon. Considering the fact that the documents pertain to one issued by an instrumentality of the State, the same should not be doubted and the Tribunal ought to have acted upon the documents, which were marked as Exs.P10 and P11.

11. In the light of the above discussion, considering these documents, this Court is inclined to fix the monthly income at Rs.20,000/-. The Tribunal had added 25% towards future prospects. It was contended that the deceased was a permanent employee and therefore, 30% must be added as per the judgment of the Apex Court in ***Pranay Sethi's*** case. The fact as to whether the deceased was a temporary employee or a permanent employee is not a matter of assumption and it has to be proved. This would require examination of some official from the Perur Town Panchayat, which was not done in this



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case. Therefore, since there is no certainty with respect to the status of employment of the deceased, this Court is not inclined to interfere with the finding of the Tribunal while adding 25% towards future prospects. Thus, the compensation under the head 'loss of income' is calculated as follows:

|                                  |          |                       |
|----------------------------------|----------|-----------------------|
| Monthly Income                   | :        | Rs. 20,000/-          |
| Add: Future Prospects            | :        | Rs. 5,000/-           |
| 25% of Rs.20,000/-               |          | -----                 |
|                                  |          | Rs. 25,000/-          |
| Annual Income                    | :        | Rs. 3,00,000/-        |
| (25,000 * 12)                    |          |                       |
| Less : Personal expenses         |          |                       |
| Rs.3,00,000/- * 1/3              | :        | Rs. 1,00,000/-        |
|                                  |          | -----                 |
|                                  |          | Rs. 2,00,000/-        |
| Multiplier                       | :        | x 13                  |
|                                  |          | -----                 |
| <b>Loss of income/dependency</b> | <b>:</b> | <b>Rs.26,00,000/-</b> |
|                                  |          | -----                 |

12. The compensation awarded under the other heads is reasonable and it does not require the interference of this Court.

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

| <i><b>Sl. No.</b></i> | <i><b>Compensation awarded under the</b></i> | <i><b>Amount by the Tribunal</b></i> | <i><b>Amount awarded by this Court</b></i> |
|-----------------------|----------------------------------------------|--------------------------------------|--------------------------------------------|
|-----------------------|----------------------------------------------|--------------------------------------|--------------------------------------------|



|    | <i>head</i>                   | <i>(in Rs.)</i>    | <i>(in Rs.)</i>    |
|----|-------------------------------|--------------------|--------------------|
| 1. | Loss of dependency            | 12,35,052/-        | 26,00,000/-        |
| 2. | Loss of consortium            | 1,20,000/-         | 1,20,000/-         |
| 3. | Medical bills (As per Ex.P13) | 50,634/-           | 50,634/-           |
| 4. | Loss of estate                | 15,000/-           | 15,000/-           |
| 5. | Funeral expenses              | 15,000/-           | 15,000/-           |
|    | <b>Total</b>                  | <b>14,35,686/-</b> | <b>28,00,634/-</b> |

14. The compensation awarded by the Tribunal at Rs.14,35,686/- is enhanced to Rs.28,00,634/-. The third 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 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.

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



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**12.06.2024**

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To  
The Motor Accident Claims Tribunal,  
IV Additional District Court,  
Coimbatore.

**N.ANAND VENKATESH, J.**

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