



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1503 of 2024

1.Sathya

2.Kumar

..Appellants

.vs.

1.R.Raja

2.M/s.National Insurance Company Ltd.,
TP HUB, LRN Building,
Saratha College Road, Salem – 636 007.

3.Devarajan

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award in judgment and Decree dated 25.01.2023 made in MCOP No.709 of 2021 on the file of the Motor Accident Claims Tribunal and Special District Court, Salem.

For Appellants : Mr.S.P.Yuvaraj

For Respondent : Ms.J.V.Sandhiya Priyadharshini
for Dr.C.Paranthaman for R2



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JUDGMENT

The claimants who are the parents not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.709 of 2021, dated 25.01.2023 have filed this appeal seeking for enhancement of compensation.

2.The claimants who are the parents of the deceased Gokulkumar filed the claim petition on the ground that the deceased Gokulkumar on 15.03.2021 was riding a two wheeler at Mecheri-Omalur main road and at about 5.45 a.m., when the vehicle approached Senkattu pirivu ponmalai karadu, the offending vehicle which was a lorry was driven in a rash and negligent manner and it hit the two wheeler from behind. As a result of which, the deceased was thrown out of the vehicle and he sustained grievous injuries and succumbed to the injuries. The deceased was a 21 year old boy who was studying III year Diploma in Chemical Engineering. 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 come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.9,29,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income $(8000 \times 12 \times 18 = 17,28,000 - \frac{1}{2} = 8,64,000)$	8,64,000
2.	Loss of Love and Affection $(20,000 \times 2)$	40,000
3.	Funeral Expenses	25,000
	Total	9,29,000

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 Ms.J.V.Sandhiya Priyadharshini, 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 Tribunal has fixed the notional monthly income of the deceased at Rs.8,000/- and this is clearly on the lower side. The accident had taken place in the year 2021 and the claimant was a 21 year old boy who was studying III year Diploma in Chemical Engineering. Therefore, this Court is inclined to fix the notional monthly income at Rs.13,500/-. Considering the age of the deceased, 40% can be added towards future prospects and thus, the notional monthly income can be fixed at Rs.18,900/- (Rs.13,500 + Rs.5400 = Rs.18,900). The compensation under the head of loss of income is calculated as follows:

$$\text{Rs.18,900} \times 12 \times 18 \times 1/2 = \text{Rs.20,41,200/-}$$

9.Insofar as loss of love and affection, the Tribunal has granted only a sum of Rs.40,000/- under this head. This Court is inclined to enhance the same to Rs.80,000/- (Rs.40,000 x 2).

10.The Tribunal has granted a sum of Rs.25,000/- as funeral expenses. The same is reduced to Rs.15,000/-. However, the Tribunal has not granted any compensation under the head of loss of estate. This Court is inclined to grant a sum of Rs.15,000/- under that head.



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

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income $(18900 \times 12 \times 18 = 40,82,400 - \frac{1}{2} = 20,41,200)$	20,41,200
2.	Loss of Love and Affection $(40,000 \times 2)$	80,000
3.	Funeral Expenses	15,000
4.	Loss of Estate	15,000
	Total	21,51,200

12.The compensation awarded by the tribunal at Rs.9,29,000/- is enhanced to Rs.21,51,200/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.21,51,200/-, 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 of Rs.12,22,200/- is concerned, the appellants/claimants will not be entitled for



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N. ANAND VENKATESH., J

ssr

interest for the period of delay period of 266 days as was ordered by this Court in C.M.P.No.10650 of 2024, dated 14.06.2024. 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.

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

03.07.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To

The Motor Accident Claims Tribunal and Special District Court, Salem.

CMA No.1503 of 2024