



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.2340 of 2022
and CMP No.18227 of 2022
and CMP No.20355 of 2023 & CMP No.3340 of 2024

The Manager
United India Insurance Company Ltd.,
Divisional Office at 73C, MTH Road,
Ambattur, Chennai 600 053
and also at Regional Office,
Motor Third Party Claims Hub, 4th Floor,
Siling Building, No.134, Greams Road,
Chennai 600 006

..Appellant

.vs.

Venkateswara Rao @ Veluru Venkateswara Rao (Died)

1.V.Sreedevi

2.V.Vamsi Krishna

3.V.Tejaswi

4.Jansi Lakshmi Bai

5.Surya

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order and decretal order dated 29.10.2021 in MCOP No.178 of 2018 passed by the learned Special Subordinate Judge, Special Subordinate Court to deal with Motor Accident Claims Tribunal-II, Tiruvallur.



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For Appellant : Mr.R.Rajesh

For Respondents : Mr.K.V.Bhanu Prasad
Senior Counsel for
Mr.J.Adithya Reddy for R1 to R4

No Appearance for R5

JUDGMENT

The Insurance Company aggrieved by the Award passed by the Motor Accident Claims Tribunal-II, Tiruvallur in MCOP No.178 of 2018, dated 29.10.2021 has filed this appeal primarily questioning the quantum of compensation fixed by the Tribunal.

2.The deceased Venkateswara Rao was riding a two wheeler on 04.02.2018 and at about 01.20 p.m., when the vehicle had approached Amman Koil Street at Chittor Road, the offending vehicle belonging to the 1st respondent was driven in a rash and negligent manner and it hit the two wheeler driven by the deceased and as a result, the deceased was thrown out of the vehicle and he sustained grievous injuries. Unfortunately, he succumbed to the injuries on 15.05.2019. He was in a coma stage for the entire period. A complaint was given and an FIR came to be registered in Crime No.83 of 2018. It is under these circumstances, the claimants who are the wife, sons and the mother of the deceased filed the claim petition seeking for compensation.



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3.The Tribunal on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to a conclusion that the offending vehicle was driven in a rash and negligent manner and was the cause for the accident. Having rendered such a finding, the Tribunal proceeded to determine the compensation and the total compensation was fixed at Rs.42,36,744/- in the following manner:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	For Loss of Income (Rs.20,625/- x 12m x M9)	22,27,500
2.	Medical Expenses	19,37,044
3.	Transport Expenses	2,200
4.	Loss of Estate	15,000
5.	Loss of Consortium	40,000
6.	Funeral Expenses	15,000
	Gross Total	42,36,744

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

5.The Insurance Company aggrieved by the quantum of compensation fixed by the Tribunal have preferred this civil miscellaneous appeal before this Court.



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6. Heard Mr.R.Rajesh, learned counsel appearing on behalf of the appellant, and Mr.K.V.Bhanu Prasad, learned Senior Counsel appearing on behalf of respondents 1 to 4.

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

8.This Court has also carefully gone through the Award passed by the Tribunal.

9.The primary ground of attack on the side of the Insurance Company is that the Tribunal had fixed the notional monthly income of the deceased at Rs.25,000/- without any basis and that the only document that was relied upon by the Tribunal was Ex.P24 which is the patta which stood in the name of the claimant for an extent of 25 acres of agricultural land. The learned counsel for the appellant submitted that the notional income fixed by the Tribunal is on a higher side and it requires the interference of this Court. The learned counsel submitted that insofar as agricultural lands are concerned, there is no question of deprivation of income and to substantiate the said submission, the learned counsel relied upon the judgment of the Apex Court in State of *Haryana and Another v. Jasbir Kaur & Others* reported in **2004 1 TN MAC (SC) 337**.

10.Mr.K.V.Bhanu Prasad, learned Senior Counsel appearing on behalf of the



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respondents 1 to 4/claimants submitted that the deceased was actively involved in developing the agricultural lands. He further submitted that the two sons are not involved in the agricultural activities and they are living elsewhere. Therefore, on the demise of Late.Venkateswara Rao, the lands are not being able to be put to effective use and as a result, there is loss of agricultural income. The learned Senior Counsel submitted that only the second claimant who is the wife of the deceased will have to take care of the agricultural lands and as a single lady, she is not able to manage the show. The learned Senior Counsel further submitted that there are larger extent of land that was managed by the family and the Tribunal had merely taken into consideration 25 acres of agricultural lands based on the patta that stood in the name of the deceased. The learned Senior Counsel conclude his arguments by submitting that the Tribunal has assigned proper reasons while fixing the compensation and that the same does not require the interference of this Court.

11.The bone of contention in the instant case, revolves around the notional income that was fixed by the Tribunal. The Tribunal took into consideration the fact that the deceased Late Venkateswara Rao was an agriculturalist and he owned 25 acres of lands. To substantiate the same, the Tribunal relied upon Ex.P24 patta. Even though, the claimants had claimed that the deceased was earning 20 Lakhs per year, the Tribunal on considering the fact that there are no other documents to substantiate this claim and considering the extent of agricultural lands, decided to fix the notional



income of the deceased at Rs.25,000/- per month.

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12.The fixation of the notional income ultimately boils down to estimation made by the Courts in motor accident cases based on the facts and circumstances of each case. The fact remains that the deceased Venkateswara Rao was the one who was taking care of the lands and his sons do not seem to be interested in the agricultural activities and they are living elsewhere. As a result, on the demise of the deceased, the wife of the deceased alone is now left to take care of the lands. In reality, it becomes very difficult for a single lady to take care of the agricultural lands and the only other claimant left is the mother of the deceased who is a very old lady. Therefore, obviously there will be loss of income in view of the demise of Late Venkateswara Rao.

13.The Tribunal has fixed the notional income of the deceased at Rs.25,000/- per month. Taking into consideration the fact that the deceased was a person who was aged about 58 years at the time of the accident and certain agricultural lands also stood in his name and obviously, some income must have been derived from those lands and the difficulties that will be faced in effectively putting the lands to use by the wife of the deceased, this Court is inclined to fix the notional income of the deceased at Rs.22,500/- per month.



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14. Insofar as the compensation that has been fixed under the other heads, the same does not require the interference of this Court.

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

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	For Loss of Income (Rs.22,500/- + 10% =24,750/- x 12m x M9) - 3/4	20,04,750
2.	Medical Expenses	19,37,044
3.	Transport Expenses	2,200
4.	Loss of Estate	15,000
5.	Loss of Consortium	40,000
6.	Funeral Expenses	15,000
	Gross Total	40,13,994

16. The compensation awarded by the Tribunal at Rs.42,36,744/- is reduced to Rs.40,13,994/-. The appellant insurance company is directed to deposit the reduced 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 weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



N. ANAND VENKATESH., J

ssr

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17.In the result, the Civil Miscellaneous Appeal is disposed of in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

16.04.2024

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

To

The Special Subordinate Judge,
Special Subordinate Court to deal with
Motor Accident Claims Tribunal-II, Tiruvallur.

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