



Civil Miscellaneous Appeal No.2982 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 22/11/2024

C O R A M

THE HONOURABLE Mr.JUSTICE **M.DHANDAPANI**

C.M.A.No.2982 of 2024

K. Kaliyammal (died)

1. K. Rukkumani
2. R. Bama
3. R. Sundari
4. K. Krishnamoorthy
5. Sumithra
6. K. Sakthivel

...

Appellants

Vs

1. C. Louie Kathiravan

2. The Manager
The New India Assurance Co Ltd
No.232, 6th Floor, Bombay Mutual Building
N.S.C.Bose Road
Chennai 01.

...

Respondents

PRAYER : Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 19/4/2023 made in M.C.O.P.No.6029 of 2016 on the file of the Motor Accidents Claims Tribunal, II Court of Small Causes, Chennai.

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For appellant ... Mr.A.A.Venkatesan

For respondents ... NDW – for R.1

Mr.S.Dakshinamoorthy
for R.2.

J U D G M E N T

Challenging the compensation awarded by the Motor Accident Claims Tribunal (II Court of Small Causes), Chennai in M.C.O.P.No.6029 of 2016, the claimants are before this Court.

2. The facts in brief as set out in the petition are as follows:-

On 6/7/2016 at about 11.40 hours, while the deceased was riding in a motorcycle bearing Registration No.TN-45-R-2148 along the Ariyalur to Keelappazhur road from South to North direction, a car bearing Registration No.TN-61-C-4849 coming from the same direction in a very rash and negligent manner driven by its driver, dashed against the deceased, thereby, the deceased was thrown out from the TVS XL super and sustained grievous head injuries and later died.



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3. Wife and children of the deceased, filed a claim petition, claiming a sum of Rs.36,00,000/- as compensation, for the fatal injuries said to have been sustained by one Kaliyaperumal, before the Motor Accident Claims Tribunal (II Court of Small Causes), Chennai, in M.C.O.P.No.6029 of 2016.

4. Before the Tribunal, during trial, on the side of the appellants, P.Ws.1 to 4 were examined and marked Exs.P.1 to P.35 and on the side of the respondents, no witness was examined and no document was marked.

5. After analyzing the oral and documentary evidence and considering the pleadings made by both the parties, the Tribunal has awarded a compensation of Rs.13,49,000/-, to the claimants. Challenging the compensation awarded by the Tribunal, the appellants have come forward with the present appeal before this Court for enhancement of compensation.

6. Heard Mr.A.A.Venkatesan, learned counsel for the appellants and Mr.S.Dakshinamoorthy, learned counsel for the second respondent.



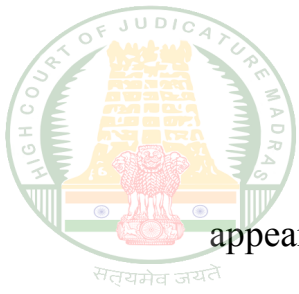
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7. The learned counsel appearing for the appellants would submit that though a sum of Rs.13,49,000/- was awarded as compensation under the heads loss of dependency, loss of consortium, loss of estate and funeral expenses, the trial Court has not awarded any amount under the heads of medical expenditure and love and affection.

8. The learned counsel appearing for the second respondent, on verification of medical bills, fairly submitted that the claimants are entitled to Rs.4,72,034/-, thereby, the appellants will be having no grievance, if this Court awards a sum of Rs.4,72,034/-, under the head medical bills. With regard to other heads, amount awarded by the Tribunal are reasonable and hence, prays for dismissal of this Civil Miscellaneous Appeal.

9. Perused the materials available on record.

10. It is an admitted fact that the age of the deceased is 63 years and thus, the trial Court had fixed notional income of the deceased at Rs.15,000/- p.m., and when applying multiplier of 7, it comes to Rs.10,08,000/- (Rs.15,000/- x 12 x 7 x 4/5). Before the Tribunal, medical bills were marked as Ex.P.14. Considering the fair submission of the learned counsel



appearing for the second respondent that after re-totalling the medical bills, the appellants are entitled to Rs.4,72,034/-, this Court is inclined to award a sum of Rs.4,72,034/- under the head medical bills. With regard to other heads, this Court is not inclined to interfere with the same.

11. Accordingly, this Civil Miscellaneous Appeal is partly allowed and the order of the Tribunal dated 19/4/2023 made in M.C.O.P.No.6029 of 2016 on the file of the Motor Accident Claims Tribunal, II Court of Small Causes, Chennai, is modified as follows:-

S.No.	Heads	Rs.
1.	Loss of dependency	10,08,000/-
2.	Loss of consortium	3,08,000/-
3.	Loss of Estate	16,500/-
4.	Funeral expenses	16,500/-
5.	Medical bills	4,72,034/-
	Total	18,21,034/-

12. The compensation amount of Rs.13,49,000/- is enhanced to Rs.18,21,034/- (Rupees Eighteen lakhs twenty one thousand and thirty four only). The appellants are entitled for equal share, with interest at the rate of 7.5% p.a., from the date of petition till the date of realisation. The second respondent/Insurance Company is directed to deposit the award amount, as



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ordered by this Court with interest, after deducting the amount, if any

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already deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the same, on making proper application before the Tribunal.

No costs.

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Index : Yes / No

Neutral Citation: Yes/No

To

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