



Civil Miscellaneous Appeal No.1480 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1480 of 2024

1.Chitra

W/o.Late Subramanian

2.Perumayee

W/o.Periyannan

3.Periyannan

S/o.Urmuppan

... Appellants

Vs.

1.J.Charles Chirstober

S/o.P.S.Joseph

2.M/s.United India Insurance Co. Ltd.,

Having Divisional Office at

No.1, TP Hub, No.104A, Ranga Building,

Peramanur Main Road, Near Four Roads,

Peramanur, Salem.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.11.2023 made in M.C.O.P.No.1521 of 2022 on the file of Motor Accident Claims Tribunal, Special District Judge, Salem.

For Appellants : Mr.R.Navaneetha Krishnan



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For Respondents : Mr.J.Chandran [R2]

JUDGMENT

The appellants/claimants, who are the wife and parents of the deceased Subramanian, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special District Judge, Salem, have filed this appeal against the award passed in M.C.O.P.No.1521 of 2022, dated 01.11.2023.

2. The case of the claimants is that the deceased Subramanian was riding a two wheeler on 15.09.2022 at Salem - Coimbatore main road and at about 13.20 hours, when the vehicle was crossing the scene of occurrence, the offending vehicle, a lorry, was driven in a rash and negligent manner and it hit the two wheeler, due to which the deceased was thrown away from the two wheeler, sustained grievous injuries and he succumbed to the injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal.

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 offending vehicle. Having rendered the above finding, the Tribunal proceeded to fix the total compensation at Rs.13,25,000/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income	12,00,000/-
2.	Loss of love and affection	60,000/-
3.	Loss of consortium	40,000/-
4.	Funeral expenses	25,000/-
	Total	13,25,000/-

The above compensation was directed to be paid along with interest at 7.5% p.a.

4. The claimants, not being satisfied with the quantum of compensation fixed by the Tribunal, have filed the present appeal before this Court.

5. Heard Mr.R.Navaneetha Krishnan, learned counsel for appellants/claimants and Mr.J.Chandran, learned counsel for second



respondent insurance company.

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

7. This Court also carefully went through the award passed by the Tribunal.

8. In the instant case, the deceased was aged about 38 years at the time of accident and he is said to have been an electrician earning monthly income of Rs.30,000/-. The Tribunal has fixed the notional monthly income at Rs.10,000/- including future prospects since there was no proof regarding the avocation or the monthly income of the deceased. The accident had taken place on 15.09.2022 and the notional monthly income fixed by the Tribunal is very much on the lower side. Considering the age of the deceased, the age of the claimants and also the year in which the accident had taken place, this Court is inclined to fix the notional monthly income at Rs.17,000/-. The age of the deceased was 38 years and therefore, 40% is added towards future prospects. If so, the loss of income/dependency would be:



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Monthly Income	:	Rs. 17,000/-
Add: Future Prospects	:	Rs. 6,800/-
40% of Rs.17,000/-		-----
		Rs. 23,800/-
Annual Income	:	Rs. 2,85,600/-
(23,800 * 12)		
Less : Personal expenses		
Rs.2,85,600/- * 1/3	:	Rs. 95,200/-

		Rs. 1,90,400/-
Multiplier	:	x 15

Loss of income/dependency	:	Rs.28,56,000/-

9. The Tribunal has granted a sum of Rs.60,000/- towards love and affection and Rs.40,000/- towards loss of consortium. This Court is inclined to consolidate both these heads and grant compensation at Rs.1,20,000/- [40000 * 3] under the head 'loss of love and affection'. The Tribunal had granted a sum of Rs.25,000/- under the head 'funeral expenses' and the same is reduced to Rs.15,000/-. The Tribunal has not granted any compensation under the head 'loss of estate' and a sum of Rs.15,000/- is granted under this head.

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



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Sl. No.	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Loss of income	12,00,000/-	28,56,000/-
2.	Loss of love and affection	60,000/-	1,20,000/-
3.	Loss of consortium	40,000/-	-
4.	Funeral expenses	25,000/-	15,000/-
5.	Loss of estate	-	15,000/-
	Total	13,25,000/-	30,06,000/-

11. The compensation awarded by the Tribunal at Rs.13,25,000/- is enhanced to Rs.30,06,000/-. 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 six 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.

02.07.2024



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Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No
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To

The Motor Accident Claims Tribunal,
Special District Judge, Salem.

N.ANAND VENKATESH, J.

gm



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