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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1407 of 2024

- 1.Sripriya
- 2.Nanthini
- 3.Minor.Abishek
- 4.Laxmi

... Appellants

[Minor rep. by his mother Sripriya]

.VS.

- 1.Iyyappan

- 2.Magma HDI General Insurance Company Ltd.,
Navin's Presidium, 3rd Floor, N.No.17/19 Old No.103, B-Block
No.3/7A, Nelson Manickam Road, Chennai - 600 029.

- 3.The New India Assurance Company Ltd.,
Motor TP HUB,
Mochi Complex, No.179, Jawaharlal Nehru Salai,
Pondichery.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the fair and decretal award passed by the learned III Additional District and Sessions Judge, Cuddalore at Vridhachalam (Motor Accident Claims Tribunal) dated 30.10.2023 in MCOP No.133 of 2022.



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For Appellants : Mr.S.Udayakumar

For Respondents : Mr.S.Murugavel for R2
Mr.J.Chandran for R3

JUDGMENT

The claimants not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.133 of 2022, dated 30.10.2023, have filed this appeal seeking for enhancement of compensation.

2.The claimants who are the wife, children and mother of the deceased Subramanian filed the claim petition on the ground that the deceased Subramanian on 17.03.2022 was riding his bicycle from Karnatham-Mangalampettai and when he was going near by-pass road crossing Mangalampettai and Karnatham road at about 19.45 hours, the offending vehicle which was a Tractor and trailer was driven in a rash and negligent manner and it dashed on the rear side of the Cycle and the deceased was thrown out and he fell down and the trailer ran over his body. The deceased died on the spot. An FIR came to be registered in Crime No.294 of 2022 against the driver of the offending vehicle. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of 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 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.17,56,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income/Dependency	17,01,000
2.	Loss of love and affection	40,000
3.	Funeral Expenses	15,000
	Total	17,56,000

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

5.The claimant 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.Udayakumar, learned counsel appearing on behalf of the appellants, Mr.S.Murugavel, learned counsel appearing on behalf of the 2nd respondent and Mr.J.Chandran, learned counsel appearing on behalf of the 3rd respondent.

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

8.In the instant case, the accident had taken place in the year 2022 and the Tribunal has fixed a sum of Rs.9,000/- towards notional monthly income of the deceased. There was no evidence regarding the avocation of the deceased and the monthly income earned by him. However, since the accident had taken place in the year 2022, this Court is inclined to fix a sum of Rs.17,000/- towards notional monthly income. 40% can be added towards future prospects considering the fact that the deceased was aged about 38 years at the time of the accident. Thus, the compensation under the head 'loss of income/dependency' is calculated as follows:

$$\text{Rs.23,800} \times 12 \times 15 \times \frac{3}{4} = \text{Rs.32,13,000/-}$$



9.The Tribunal has granted only a sum of Rs.40,000/- under the head of loss of love and affection. There are totally four claimants in this case and therefore, this Court is inclined to fix a sum of Rs.1,60,000/- under this head (Rs.40,000/- x 4). The Tribunal has not fixed any compensation under the head of loss of estate and this Court is inclined to fix a sum of Rs.15,000/- under this head.

10.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/Dependency	32,13,000
2.	Loss of love and affection	1,20,000
3.	Funeral Expenses	15,000
4.	Loss of Estate	15,000
	Total	33,63,000

11.The compensation awarded by the tribunal at Rs.17,56,000/- is enhanced to Rs.33,63,000/-. The respondent insurance companies are 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



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N. ANAND VENKATESH., J

ssr

deposit within a period of four 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. The above enhanced compensation shall be paid at the rate of 50% each by the 2nd and 3rd respondents.

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

26.07.2024

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

The III Additional District and Sessions Judge,
Cuddalore at Vridhachalam (Motor Accident Claims Tribunal).

CMA No.1407 of 2024