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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1919 of 2024

1.Jamila

2.Ayesha

... Appellants

.VS.

1.P.Pradeep

2.The ICICI Lombard General Insurance Co. Ltd.,
No.142, 1st Floor, ECR Main Road,
Pondicherry – 1.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 25.09.2023 made in MCOP No.178 of 2022, on the file of the Motor Accident Claims Tribunal, II Additional District and Sessions Judge, Tiruvallur at Poonamallee.

For Appellants : Mr.K.G.Suresh

For Respondents : Mr.M.Jayaraj for R2



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JUDGMENT

The claimant who are the daughters of the deceased Sabira not being satisfied with the quantum of compensation awarded by the Tribunal in MCOP No.178 of 2022, dated 25.09.2023, have filed this appeal seeking for enhancement of compensation.

2.The case of the claimants is that the deceased Sabira on 06.07.2023 after getting down from the bus was walking on the road side near Aravindh Eye Hospital and at about 6.45 a.m, the two wheeler which was coming from the opposite direction was driven in a rash and negligent manner and it dashed on the deceased. She sustained serious injuries and she was taken to the hospital. Unfortunately, the deceased succumbed to the injuries on 08.07.2022. An FIR came to be registered against the rider of the two wheeler. 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 rider of the two wheeler. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.9,94,444/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income	9,60,444
2.	Loss of Estate	17,000
3.	Funeral Expenses	17,000
	Total	9,94,444

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.K.G.Suresh, learned counsel appearing on behalf of the appellants and Mr.M.Jeyaraj, 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. In the considered view of this Court, the compensation that has been fixed under the head of loss of income, loss of estate and funeral expenses are reasonable. The Tribunal has not fixed any compensation under the head of loss of love and affection. This Court is inclined to fix a sum of Rs.80,000/- (Rs.40,000 x 2) under this head.

9. 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	9,60,444
2.	Loss of Estate	17,000
3.	Funeral Expenses	17,000
4.	Loss of Love and Affection	80,000
	Total	10,74,444

10. The compensation awarded by the tribunal at Rs.9,94,444/- is enhanced to Rs.10,74,444/-. 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 four 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 claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

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

01.08.2024

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

To

The Motor Accident Claims Tribunal,
II Additional District and Sessions Judge, Tiruvallur at Poonamallee.



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N. ANAND VENKATESH., J

SSR

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