



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1228 of 2024

1.M.Prabhavathi

2.M.Oviya (Minor)

3.M.Abishek (Minor)

4.R.Sulochana

5.S.Ramesh

..Appellants

(2nd and 3rd appellants are represented by their guardian and next friend 1st appellant Prabhavathi)

.VS.

1.D.Umamageshwari

2.The Manager,

M/s.Shriram General Insurance Company Limited

No.5, Ramachandran Street,

Saravanan Nagaram Srivaram,

Perungudi, Chennai - 600 096.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the order made in MCOP No.737 of 2019, dated 21.07.2023 on the file of the Motor Accident Claims Tribunal (in the II Court of Small Causes, Chennai).



For Appellants : Mr.K.Balaji

For Respondents : Ms.R.Sree Vidhya for R2

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JUDGMENT

The claimants who are the wife, minor children and parents of the deceased, not being satisfied with the quantum of compensation fixed by the Tribunal, have filed the present appeal against the Award passed by the Motor Accident Claims Tribunal(In the II Court of Small Causes, Chennai) in MCOP.No.737 of 2019, dated 21.07.2023.

2.The case of the claimants is that the deceased Madhusudanan was riding a two wheeler on 26.12.2018 in Nellikuppam road and he was proceeding towards Malaimedu Pilliyar Koil at about 19:00 hours and at that point of time, the offending vehicle owned by the 1st respondent was driven in a rash and negligent manner and it dashed on the two wheeler as a result of which the deceased was thrown out of the vehicle and he sustained grievous injuries and unfortunately, he succumbed to the injuries on the same day in the hospital. It is under these circumstances, the claimants filed the claim petition seeking for the 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 van driver. Having rendered such a finding, the Tribunal proceeded to fix the total

compensation of Rs.23,95,000/- under various heads as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Dependency	21,42,000
2.	Loss of Consortium	2,20,000
3.	Loss of Estate	16,500
4.	Funeral Expenses	16,500
	Total	23,95,000

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 have filed the present appeal before this Court seeking for enhancement of compensation.

6.Heard Mr.K.Balaji, learned counsel appearing on behalf of the appellants and Ms.R.Sreevidhya, 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.The main focus of the arguments on the part of the appellants is that the Tribunal had fixed the notional monthly income at Rs.10,000/- which is on the lower side.

9.The deceased was aged about 28 years and it was claimed that he was working in a private Company in the packing department and was earning a sum of Rs.15,000/- per month. There was no evidence available before the Tribunal to show that the deceased was in fact working in a private concern and there was also no evidence with respect to the income earned by the deceased. Therefore, the Tribunal fixed the notional monthly income at Rs.10,000/- per month.

10.The accident had taken place in this case on 26.12.2018. Considering the age of the deceased and the stand taken by the claimants and also of the fact that the accident had taken place almost during the end of the year 2018, this Court is inclined to fix the notional monthly income at Rs.15,000/- per month. 40% can be added towards future prospects and thereby, the compensation under the head of loss of dependency is arrived at a sum of Rs.32,13,000/-. The compensation that has been granted under the other heads are reasonable and it does not require the interference of this Court.



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11. 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 Dependency (Rs.21,000/- x 12 x 17 x 1/4)	32,13,000
2.	Loss of Consortium	2,20,000
3.	Loss of Estate	16,500
4.	Funeral Expenses	16,500
	Total	34,66,000

12. The compensation awarded by the tribunal at 23,95,000/- is enhanced to Rs.34,66,000/-. The second respondent insurance company is directed to deposit the enhanced compensation of Rs.34,66,000/-, 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 of Rs.10,71,000/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 125 days as was ordered by this Court in C.M.P.No.9764 of 2024, dated 30.04.2024. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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N. ANAND VENKATESH., J

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

12.06.2024

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

The Motor Accident Claims Tribunal (in the II Court of Small Causes, Chennai).

CMA No.1228 of 2024