



C.M.A.No.1500 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 03.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.1500 of 2023

1.V.Jayanthi

2.Minor. V.Kishore

3.Minor. V.Gohul

(Minor appellants 2 & 3 represented by
their Mother & Next Friend V.Jayanthi,
1st appellant herein)

4.C.Vasanth

.. Appellants

Vs.

1.S.Chitra

(R1 remained exparte before the Tribunal.
Hence, notice to R1 is dispensed with)

2.The Cholamandalam MS General Insurance Company Limited,
Dare House, 2nd Floor,
No.2, NSC Bose Road,
Chennai – 600 001.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor
Vehicles Act, 1988, praying to enhance and set aside the award against



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the judgment and decree dated 16.12.2021 made in M.C.O.P.No.41 of 2017 on the file of the Motor Accident Claims Tribunal, Special District Court No.I to deal with Motor Accidents Claims Tribunal, Thiruvallur.

For Appellants : Ms.A.Subadra

For R2 : Ms.R.Sree Vidhya

J U D G M E N T

The claimants who are the wife, two minor sons and mother of the deceased Vadamalai, not being satisfied with the quantum of compensation, have filed the present appeal against the award passed by the Motor Accident Claims Tribunal, Special District Court No.I to deal with MCOP cases, Thiruvallur, in M.C.O.P.No.41 of 2017 dated 16.12.2021.

2.The case of the claimants is that on 07.08.2016, the deceased Vadamalai was riding a two wheeler at Somangalam to Tambaram road and at about 06.45 AM, when he reached near Sairam College bus stop, the offending vehicle belonging to the 1st respondent was driven in a rash and negligent manner and it came in the opposite direction and it dashed



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on the two wheeler. As a result, the deceased sustained multiple 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 the 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 rendered this finding, the Tribunal proceeded to fix the total compensation at Rs.15,92,000/- under various heads as follows:

1.Loss of earning of the deceased	-	Rs.15,12,000/-
2.Loss of Estate	-	Rs.15,000/-
3.Loss of Consortium	-	Rs.40,000/-
4.Funeral Expenses	-	Rs.15,000/-
5.Transport to hospital expenses	-	Rs.10,000/-
Total		Rs.15,92,000/-

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



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5.The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed this appeal seeking for enhancement of compensation.

6.Heard the learned counsel for the appellants and the learned counsel for the 2nd respondent.

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

8.This Court has also carefully gone through the award passed by the Tribunal.

9.The main grievance that was expressed on the side of the appellants is with regard to the notional monthly income fixed by the Tribunal and also the compensation that was fixed under the head of loss of love and affection.

10.The case of the claimants is that the deceased was working as a Centering Construction Worker and was earning a sum of Rs.25,000/-



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per month. The deceased was aged about 40 years at the time of accident.

Since, there was no proof for the occupation of the deceased and the monthly income earned by him, the Tribunal proceeded to fix a sum of Rs.8,000/- per month as notional monthly income.

11.The accident in this case took place in the year 2016 and the deceased is said to be working as a Centering Construction Worker. There are totally four dependents in this case. Therefore, this Court is inclined to fix the notional monthly income at Rs.12,000/- per month. 40% can be added towards future prospects. Thus, the compensation under the head of loss of earning is calculated as follows:

Monthly income fixed	:	Rs.12,000/-
Future prospects to be added	:	40%
Notional Income arrived at	:	Rs.12,000/- + 40% Rs.16,800/-
After deducting 1/4 th for personal expenses	:	Rs.12,600/-
Multiplier to be adopted	:	15
Loss of Dependency Rs.12,600/- X 12 X 15	:	Rs.22,68,000/-

12.The Tribunal has granted a sum of Rs.40,000/- under the head



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of loss of consortium. There are four dependents in this case and this Court is inclined to fix a sum of Rs.40,000/- for each of the dependent. Thus, this Court is inclined to fix a sum of Rs.1,60,000/- as compensation under the head of loss of love and affection.

13.The compensation that has been fixed under the other heads are reasonable and it does not require the interference of this Court.

14.In the light of the above discussions, the compensation awarded by the Tribunal is modified as follows:

1.Loss of earning of the deceased	-	Rs.22,68,000/-
2.Loss of Estate	-	Rs.15,000/-
3.Loss of love and affection	-	Rs.1,60,000/-
4.Funeral Expenses	-	Rs.15,000/-
5.Transport to hospital expenses	-	Rs.10,000/-
Total		Rs.24,68,000/-

15.The compensation awarded by the Tribunal at Rs.15,92,000/- is hereby enhanced to Rs.24,68,000/-. The 2nd respondent is directed to deposit the enhanced compensation together with interest at 7.5% p.a.



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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, if not already deposited. 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.

16.On reading of the award passed by the Tribunal, it is seen that two claim petitions were filed, one in Chennai and another in Thiruvallur. If the claim petition filed in Chennai is pending, the same shall be withdrawn or closed as not pressed.

17.In the result, the Civil Miscellaneous Appeal is partly allowed in the above terms. No costs.

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

N.ANAND VENKATESH, J.



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To

1.The Special District Judge No.I,
Motor Accident Claims Tribunal,
Special District Court to deal with
MCOP cases No.I, Thiruvallur.

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.

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