



C.M.A.No.3085 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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- 1.Farsana
- 2.Minor Jafar
- 3.Minor Zameer
- 4.Minor Sufiya
- 5.Salema Bee
- 6.Sheik Thasthakir

Minors are represented by their mother/
first appellant

... Appellants

Vs.

- 1.Gundupalli Venkada Gandhi
- 2.The Divisional Manager,
United India Insurance Company Limited,
TP Claims Hub No.81, Katpadi Road,
T.K.M.Complex,
2nd Floor,
Vellore-632 004.

... Respondents / Respondents



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PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 03.09.2021 made in M.C.O.P.No.479 of 2018 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tiruvannamalai.

For Appellant : Mr.A.Subadra

For Respondents : Mr.M.Krishnamoorthy for R2

J U D G M E N T

The appellants / claimants, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai, in M.C.O.P.No.479 of 2018, dated 03.09.2021, have filed this appeal.

2. On 12.05.2018, at about 07.30 p.m., when the deceased, namely, Lal Basha, was returning back for another ride after dropping the passengers in his auto and came near Raja Rani Wedding Hall at Ganapathi Nagar, the driver of the lorry belonging to the first respondent drove the vehicle in a rash and negligent manner and dashed against the deceased's



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vehicle, due to which, the auto was thrown out and the deceased sustained injuries and died on the spot. It is under these circumstances, the claim petition came to be filed before the Tribunal by the claimants, who are the wife, children and parents of the deceased, seeking for compensation.

3. Before the Tribunal, on the side of the claimants, P.W.1 to P.W.3 were examined and Exs.P1 to P9 were marked. On the side of the respondents, no witness was examined and no documents were marked. 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 lorry. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.20,86,000/- under various heads. The above compensation was directed to be paid by the second respondent along with interest at 7.5% p.a.

4. The claimants, not being satisfied with the quantum of compensation awarded by the Tribunal, have filed this appeal seeking



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compensation.

5. The learned counsel appearing for the appellants submitted that the Tribunal failed to consider the income of the deceased. At the time of accident, the deceased was aged about 34 years and was running Auto as owner cum driver and was earning Rs.25,000/- per month, however, the Tribunal has fixed the income of the deceased as Rs.10,000/- per month only and to prove the income of the deceased, the Registration Certification of Auto standing in the name of the deceased and the driving license of the deceased were marked. Further, the amount awarded under the heads, loss of consortium, loss of estate and funeral expenses is also very meagre. No compensation is awarded towards loss of love and affection to the appellants 2 to 6. Hence, the learned counsel for the appellants prays for enhancement of compensation.

6. The first respondent remained *ex-parte* before the Tribunal.



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7. Per contra, learned counsel appearing for the second respondent / Insurance company submitted that the Tribunal, taking into consideration all the relevant documents, has rightly fixed the compensation, which does not require any interference. Hence, he prays for dismissal of this appeal.

8. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

9. In the instant case, the deceased was a auto driver and was aged about 34 years at the time of accident and the accident had taken place in the year 2018. The Tribunal has fixed the notional monthly income at Rs.10,000/- which is on the lower side. Hence, this Court is inclined to enhance the notional monthly income to Rs.14,000/- per month by adding 40% future prospects. If so, the loss of dependency would be :

Monthly Income	:	Rs. 14,000/-
Add: Future Prospects 40% of Rs.14,000/-	:	Rs. 5,600/- -----



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		Rs. 19,600/-
Annual Income (19,600 * 12)	:	Rs. 2,35,200/-
Less : Personal expenses Rs.2,35,200/- * 1/4	:	Rs. 58,800/- -----
		Rs. 1,76,400/-
Multiplier	:	x 16 -----
Loss of income/dependency :		Rs.28,22,400/- -----

10. Insofar as the loss of consortium is concerned, the Tribunal has rightly awarded a sum of Rs.40,000/- to the first appellant. However, the Tribunal has not awarded any compensation towards love and affection to the appellants 2 to 6. Hence, this Court is inclined to award a sum of Rs.40,000/- to each of the appellants 2 to 6 towards love and affection. The other heads awarded by the Tribunal are just and reasonable and the same are hereby confirmed.



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11. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:

<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Loss of income	20,16,000/-	28,22,400/-
2	Loss of consortium	40,000/-	40,000/-
3	Loss of Estate	15,000/-	15,000/-
4	Funeral Expenses	15,000/-	15,000/-
5	Love and Affection	-	2,00,000/-
	Total	Rs.20,86,000/-	Rs.30,92,400/-

12. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.20,86,000/- is hereby enhanced to Rs.30,92,400/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent /Insurance Company is directed to deposit the entire award



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amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.479 of 2018 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Tiruvannamalai. On such deposit, the appellant Nos.1, 5 and 6 are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn, as per the apportionment fixed by the Tribunal by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

13. Insofar as the appellants 2 to 4, viz., the minor sons and the daughter of the deceased is concerned, since they are yet to attain majority, the Tribunal is directed to keep their share in deposit in an interest yielding fixed deposit with any one of the Nationalised Banks, initially for a period of three years to be renewed at periodic intervals until the minors attain majority and interest derived from out of the said share of the minors shall



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be paid to the first appellant/ mother every quarter to be utilised for the welfare of the said minors. Upon attaining majority and upon proper proof being filed substantiating attainment of majority, the Tribunal is directed to transfer the share of the appellant Nos.2 to 4 directly to the Bank account of the appellant Nos.2 to 4 through RTGS. No costs.

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NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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To

1.The Motor Accidents Claims Tribunal, Special Sub Court, Tiruvannamalai.

2. The Section Officer,
V.R. Section,



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High Court, Chennai.



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M.DHANDAPANI, J.

This matter is listed today under the caption "for being mentioned" at the instance of the Registry.

2. It is brought to the notice of this Court by the Registry that, the interest for the default period which has not been granted, vide order of this Court dated 30.10.2024 has not been incorporated in the operative portion of the judgment dated 28.11.2024 in and by which the Civil Miscellaneous Appeal was partly allowed with a direction to the second respondent to deposit the entire award amount now determined by this Court with appropriate interest before the tribunal and therefore, necessary clarification is sought.

3. This Court perused the judgment dated 28.11.2024 and finds that there is no mentioning about the interest for the default period in the operative portion of the judgment dated 28.11.2024, though it was not



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awarded vide order dated 30.10.2024.

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4. In view of the same, Paragraph 12 of the judgment dated 28.11.2024 is recalled and shall stand replaced with the following paragraph:

“12. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.20,86,000/- is hereby enhanced to Rs.30,92,400/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. However, it is made clear that the appellants/claimants are not entitled for the interest for the default period. The second respondent /Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.479 of 2018 on the file of the Motor Accidents Claims Tribunal, Special Sub Court,



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Tiruvannamalai. On such deposit, the appellant Nos.1, 5 and 6 are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn, as per the apportionment fixed by the Tribunal by making proper application before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. ”

5. Registry is directed to carry out the necessary correction as aforesaid in the judgment dated 28.11.2024 and issue fresh copy of the order to the learned counsel for the parties.

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