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C.M.A.No.235 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.No.235 of 2023

1.Komalavalli

2.Logu

3.Varman

4.Paramasivam

5.Balaji

.. Appellants

Vs.

1.Gowtham

2.HDFC ERGO General Insurance Co. Ltd.,
R.R.Towers, II Phase, 2nd Floor,
94/95, T.V.K.Industrial Estate, Guindy,
Chennai – 600 032.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to enhance the amount awarded in M.C.O.P.No.6444 of 2018 dated 20.03.2020 on the file of the Motor Accident Claims Tribunal, (Chief Judge, Court of Small Causes), Chennai as prayed for with interest and cost.

For Appellants	:	Mr.K.Varadhakamaraj
For R1	:	No appearance
For R2	:	Mr.T.K.Premkumar



J U D G M E N T

The claimants who are the daughter and four sons of the deceased Dhanusu, not being satisfied with the quantum of compensation, have filed this appeal against the award passed by the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai, in M.C.O.P.No.6444 of 2018 dated 20.03.2020.

2.The case of the claimants is that the deceased Dhanusu on 25.02.2018 was riding his moped near Echangadu Koot Road and at about 01.00 P.M., the offending vehicle which was also a two wheeler was ridden in a rash and negligent manner and it hit the moped driven by the deceased. As a result, the deceased was thrown out of the vehicle and he sustained intertrochanteric fracture right femur, fracture distal femur right, right proximal tibia fracture, right auricular laceration. He underwent a surgery on 26.02.2018 and he underwent treatment as an inpatient till 17.03.2018. He died on 19.03.2018. 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 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 rider of the offending vehicle.

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4.The Tribunal having rendered the above finding, took into consideration the fact that the deceased was aged about 86 years and there was absolutely no dependency on the deceased. Hence, while not granting any compensation on the ground of loss of dependency, fixed the total compensation at Rs.4,25,635/- under the following heads:

1.Towards loss of dependency	-	NIL
2.Towards funeral expenses	-	Rs.15,000/-
3.Towards loss of love and affection Rs.10,000/- each X 5	-	Rs.50,000/-
4.Towards medical expenses	-	Rs.3,60,635/-

Total		Rs.4,25,635-

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

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



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

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

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

10. The compensation granted under the head of loss of love and affection alone requires enhancement. The Tribunal has granted only a sum of Rs.10,000/- for each of the claimant under this head. Even though the deceased was aged about 86 years, obviously his death has been expedited only due to the injuries sustained by him in the accident. Even though these injuries may not result in death for a middle aged person, such injuries normally expedite the demise of old people. To that extent, there is a causal connection between the injuries sustained in the accident and the ultimate demise of the deceased.

11. Whatever may be the age of the father, that does not in any way take away the love and affection of the children. Therefore, this Court is



inclined to fix a sum of Rs.40,000/- for each of the claimant under the head of parental consortium. Accordingly, a sum of Rs.2,00,000/- is fixed under the head of loss of love and affection.

12.The Tribunal has not granted 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.

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

1.Towards funeral expenses	-	Rs.15,000/-
2.Towards parental consortium Rs.40,000/- each X 5	-	Rs.2,00,000/-
3.Towards medical expenses	-	Rs.3,60,635/-
4.Towards loss of estate	-	Rs.15,000/-
Total		Rs.5,90,635/-

14.The compensation awarded by the Tribunal at Rs.4,25,635/- is hereby enhanced to Rs.5,90,635/-. The 2nd respondent – Insurance

Company is directed to deposit the enhanced compensation together with



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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 a copy of this judgment, if not already deposited. Insofar as the enhanced compensation of Rs.1,65,000/- is concerned, the appellants / claimants will not be entitled for interest for the period of delay of 195 days in representing this appeal. 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.

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

29.07.2024

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



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To

1.The Chief Judge,
Motor Accident Claims Tribunal,
Small Causes Court,
Chennai.

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

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N.ANAND VENKATESH, J.

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