



Civil Miscellaneous Appeal No.1945 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :02.08.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1945 of 2024

1.Abinayasri (Minor)

2. Rajini (minor)

[Minor Appellants are represented by Natural Guardian
Grand father and Next Friend Karthikeyan, since the
father of the minor appellants is the 1st respondent)
Kothandavadi Post, Thiruvannamalai District.

...Appellants

Vs.

1. K.Rajendran

2. The Manager,
M/s.The Oriental Insurance Company Limited,
Motor III Party Claims office,
No.115, Prakasam Salai,
Broadway, Chennai 600 108

..Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award passed by the Motor Accident Claims Tribunal, II judge, Small Causes Court, Chennai in MCOP No.4609 of 2017 dated 26.04.2023.



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For Appellant : Mr.K.Sivakumar

For Respondents : R1- Exparte
Mr.S.Senthil Kumar for R2

JUDGMENT

The claimants, who are the children of the deceased Sangeetha, not being satisfied with the quantum of compensation awarded by the Tribunal, have filed this appeal challenging the award passed by Motor Accident Claims Tribunal, II judge, Small Causes Court in MCOP No.4609 of 2017 dated 26.04.2023.

2. The case of the claimants is that the deceased Sangeetha was travelling in a two wheeler as a pillion rider on 17.05.2017, which was driven by the 1st respondent, who was the husband of the deceased. The offending vehicle was moving at Chetpet to Vandavasi Road and at about 7.00 a.m, when the vehicle came near Yendhal Koot Road, the two wheeler was driven by the 1st respondent in a rash and negligent manner. The 1st respondent without noticing a speed breaker, lost his control and as a result of which, the deceased was thrown out of the two wheeler and



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she died on the spot after sustaining grievous head injuries. It is under these circumstances, the minor children of the deceased, filed the claim petition 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 driver of the 1st respondent.

4. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.14,65,000/- under various heads as follows :-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	Rs.13,44,000/-
2.	Loss of Consortium	Rs.88,000/-
3.	Loss of Estate	Rs.16,500/-
4.	Funeral expenses	Rs.16,500/-
	Total	Rs.14,65,000/-

5. The above compensation was directed to be paid by the



Insurance company 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.

7. Heard Mr.K.Sivakumar, learned counsel for appellants/claimants and Mr.S.Senthil Kumar, learned counsel for 2nd respondent.

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

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

10. The only issue that arises for consideration is with regard to the notional monthly income that was fixed by the Tribunal while



calculating the compensation under the head of loss of dependency. The deceased was aged about 36 years at the time of the accident and according to the claimants, she was doing tailoring work and earning a sum of Rs.700/- per day. There is no evidence regarding the monthly income earned by the deceased. The Tribunal fixed the notional monthly income at Rs.8,000/-, which is clearly on the lower side. Even assuming that the deceased was a home maker, a higher monthly notional income has to be fixed. Accordingly, this Court is inclined to fix a sum of Rs.12,500/- as notional monthly income. Considering the age of the deceased, 40% can be added towards future prospects. Thus, the compensation under the head of loss of income / dependency is calculated as follows :-

Monthly Income	:	Rs. 12,500/-
Add: Future Prospects	:	Rs. 5,000/-
40% of Rs.12,500/-	:	-----
		Rs. 17,500/-
Annual Income	:	Rs. 2,10,000/-
(17,500 * 12)		
Less : Personal expenses		
Rs.2,10,000/- * 1/3	:	Rs. 70,000/-

		Rs. 1,40,000/-
Multiplier	:	x 15



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

12. In the light of the above discussion, this Court modifies the compensation in the following manner:-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	Rs.21,00,000/-
2.	Loss of Consortium	Rs.88,000/-
3.	Loss of Estate	Rs.16,500/-
4.	Funeral expenses	Rs.16,500/-
	Total	Rs.22,21,000 /-

13. The compensation awarded by the Tribunal at Rs.14,65,000/- is enhanced to Rs.22,21,000/-. The Insurance company is directed to deposit the enhanced compensation, less the amount already



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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.7,56,000/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 104 days as was ordered by this Court in C.M.P.No.10225 of 2024, dated 12.07.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

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

02.08.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To, Motor Accident Claims Tribunal, II judge, Small Causes Court, Chennai.



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