



C.M.A.No.3274 of 2024

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 25.11.2024 and also the payment of Court fee to be paid by the appellant on the compensation enhanced by this Court, has not been incorporated in the operative portion of the judgment dated 16.12.2024 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 16.12.2024 and finds that there is no mentioning about the interest for the default period in the operative portion of the judgment dated 16.12.2024, though it was not awarded vide order dated 25.11.2024 and about the payment of Court fee on the enhanced compensation which requires to be incorporated.



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4. In view of the same, Paragraph 12 of the judgment dated 16.12.2024 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.22,41,000/- is hereby enhanced to Rs.25,61,000/- 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 appellant/claimant is not entitled for the interest for the default period. The second respondent 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.2062 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem. On such deposit, the appellant and the third respondent are permitted to withdraw the award amount now determined by this Court, along with interest and costs, less



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the amount if any, already withdrawn as per the apportionment fixed by the Tribunal by making proper application before the Tribunal, after payment of additional court fee by the appellant on the enhanced compensation. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs.”

5. Registry is directed to carry out the necessary correction as aforesaid in the judgment dated 16.12.2024 and issue fresh copy of the order to the learned counsel for the parties.

27.03.2025

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27.03.2025



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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3274 of 2024

Mythili

... Appellant

Vs.

1.S.Saravanan

2.United India Insurance Company Limited,
Divisional Office,
19/2A, Junction Main Road,
Salem-636 004.

3.Ravi

4.Oriental Insurance Company Limited,
No.10/274, Salem Main Road,
BCPN Patti,
Mettur-636 402.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 07.10.2021 made in M.C.O.P.No.2062 of 2019 on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem.

For Appellant : Mr.S.P.Yuaraj

For Respondents : Mr.R.Rathnathara for R2



Mr.J.Chandran for R4

J U D G M E N T

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The appellant / claimant, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special District Court, Salem, in M.C.O.P.No.2062 of 2019, dated 07.10.2021, has filed this appeal.

2. On 20.07.2019, at about 05.30 p.m., when the deceased, namely, Vijayanand, was riding in his two wheeler along with a pillion rider on his extreme left in Salem to Omalur main road near Vijaya Sesha Mahal, a bus bearing Reg.No.TN 30 AS 3396 belonging to the first respondent was driven by its driver in a rash and negligent manner in the same direction and hit behind the two wheeler, due to which, the deceased sustained fatal injuries and he was admitted in Manipal Hospital, Salem, however, he died on the same day. Under these circumstances, the claim petition came to be filed by the appellant before the Tribunal seeking for compensation. Though the third respondent is the father of the deceased, since he is the owner of the two wheeler, he was impleaded as third respondent and the respondent No.4 is the insurer of the two wheeler. The second respondent is the insurer of the



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3. Before the Tribunal, on the side of the claimant, P.W.1 and P.W.2 were examined and Exs.P1 to P13 were marked. On the side of the respondents, no witness was examined and no document was 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 first respondent's vehicle. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.22,41,000/- under various heads. The above compensation was directed to be paid by the first and second respondents jointly and severally along with interest at 7.5% p.a.

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

5. The learned counsel appearing for the appellant submitted that the deceased was working as Lecturer in Kauvery Polytechnic College, Mettur and was earning a sum of Rs.50,000/- per month, at the time of accident,



however, the Tribunal has taken the monthly income of the deceased as Rs.16,000/- only and future prospects was not awarded. He further submitted that the appellant is the mother of the deceased and the third respondent is the father of the deceased and since the third respondent is the owner of the two-wheeler, he was impleaded as the third respondent. The deceased was a bachelor at the time of accident and instead of deducting $\frac{1}{2}$ towards personal expenses, the Tribunal has deducted $\frac{1}{3}$ towards personal expenses and the amount awarded under the head love and affection is also very meage and no amount is awarded under the head loss of estate. Hence, he prays for enhancement of compensation.

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

7. Per contra, learned counsel appearing for the second respondent / Insurance company submitted that the deceased has suddenly turned right without signal and invited the accident and during the time of accident, the deceased was not wearing the helmet and the compensation awarded by the Tribunal is very excessive. Hence, he prays for dismissal of this appeal.



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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 aged about 28 years at the time of accident and was working as Lecturer in a Private College and earning a sum of Rs.50,000/- per month. The Tribunal, considering the salary Certificate produced by the appellant which is marked as Ex.P13, has fixed the monthly income of the deceased as Rs.16,000/- which does not require any interference. However, as per the judgment of the Hon'ble Apex Court in the case of *National Insurance Company vs. Pranay Sethi reported in 2017 (2) TNMAC 609 (SC)*, the appellant is entitled to 50% future prospects. Further, the deceased was a bachelor at the time of accident and instead of deducting $\frac{1}{2}$ towards personal expenses, the Tribunal has deducted $\frac{1}{3}^{\text{rd}}$ towards personal expenses. By adding 50% towards future prospects and deducting $\frac{1}{2}$ towards personal expenses, the compensation awarded by the Tribunal towards loss of income is modified as follows:

Monthly Income	:	Rs. 16,000/-
Add: Future Prospects	:	Rs. 8,000/-



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50% of Rs.16,000/-

Rs. 24,000/-

Annual Income : Rs. 2,88,000/-
(24,000 * 12)

Less : Personal expenses

Rs.2,88,000/- * 1/2 : Rs. 1,44,000/-

Rs. 1,44,000/-

Multiplier : x 17

Loss of dependency : Rs.24,48,000/-

10. The amount awarded under the head 'loss of love and affection' to the appellant and the third respondent/mother and the father of the deceased is on the lower side and the same is enhanced to Rs.80,000/- (Rs.40,000/- * 2). A sum of Rs.25,000/- awarded by the Tribunal towards funeral expenses is excessive and the same is hereby reduced to Rs.16,500/-. The Tribunal has not awarded any compensation towards loss of estate and hence, a sum of Rs.16,500/- is awarded towards loss of estate.

11. In the above circumstances, the compensation awarded by the



Tribunal under the below mentioned heads is modified as under:

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<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	Rs.21,76,000/-	Rs.24,48,000/-
2	Loss of love and affection	Rs.40,000/-	Rs.80,000/-
3	Funeral Expenses	Rs.25,000/-	Rs.16,500/-
4	Loss of Estate		Rs.16,500/-
	Total	Rs.22,41,000/-	Rs.25,61,000/-

12. In the result, this Civil Miscellaneous Appeal is allowed in part and the compensation awarded by the Tribunal at Rs.22,41,000/- is hereby enhanced to Rs.25,61,000/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent 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.2062 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem. On such deposit,



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the appellant and the third respondent 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. No costs.

16.12.2024

NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

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To

1.The Motor Accidents Claims Tribunal,
Special District Court, Salem.

2. The Section Officer,
V.R. Section,
High Court, Chennai.



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