



Civil Miscellaneous Appeal No.1408 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1408 of 2024

and

C.M.P.No.12352 of 2024

Srinivasan

S/o.Kaliyappan

... Appellant

Vs.

1.Sowmiya

W/o.Ayyanar

2.Ayyanar

S/o.Govindhan

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 05.02.2024 made in M.C.O.P.No.163 of 2023 on the file of Special District Judge, MCOP Tribunal, Salem.

For Appellant : Mr.M.Guruprasad

JUDGMENT

The owner of the offending vehicle has filed the present appeal questioning the quantum of compensation awarded by the Special District Judge, MCOP Tribunal, Salem, in M.C.O.P.No.163 of 2023, dated 05.02.2024.



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2. The claimants are the parents of the deceased minor Elamaran.

On 05.08.2022, the minor Elamaran was travelling as a pillion rider in a two wheeler driven by his father viz., the second claimant and they were going at Salem - Sankari main road and at about 09.30 p.m. near Neickarapatty junction, the offending vehicle, a Car, was driven in a rash and negligent manner and it hit the two wheeler from behind as a result of which the minor Elamaran was thrown out of the vehicle and unfortunately, he succumbed to the injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking 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 due to the rash and negligent driving on the part of the offending vehicle.

4. The Tribunal took into consideration the fact that the deceased was a 5 month old baby and fixed a lump sum compensation of Rs.6,00,000/-, which was directed to be paid by the owner of the vehicle with interest at 7.5% p.a.



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5. The owner of the offending vehicle, aggrieved by the quantum of compensation fixed by the Tribunal, has filed the present appeal before this Court.

6. Learned counsel for appellant submitted that the Tribunal has fixed a lump sum compensation of Rs.6,00,000/- without properly considering the judgment of the Apex Court in ***Kishan Gopal and another v. Lala and others [(2014) 1 SCC 244]***. Learned counsel submitted that at the best, only a sum of Rs.5,00,000/- can be fixed as lump sum compensation, whereas, the Tribunal has fixed a sum of Rs.6,00,000/-, which requires the interference of this Court.

7. The judgment relied upon by learned counsel for appellant pertains to an accident that had taken place in the year 1992. The Apex Court had only given a broad guideline while ordering for compensation in the case of demise of a child in an accident. In such cases, it will not be possible to arrive at any income and therefore, some lump sum compensation was directed to be paid. It must be kept in mind that the lump sum compensation indicated by the Apex Court is not a fixed



amount and as time progresses, the Court has to necessarily take into consideration the cost of living and the price index and naturally, the lump sum compensation amount has to be increased and it can never remain static.

8. In the instant case, the accident had happened in the year 2022 and therefore, the compensation fixed by the Apex Court for an accident, which took place in the year 1992, cannot be a guiding factor for fixation of compensation. Hence, the Tribunal has fixed the lump sum compensation of Rs.6,00,000/-, which is not found to be unreasonable. The award passed by the Tribunal is not liable to be interfered by this Court.

9. The appellant is directed to deposit the compensation of Rs.6,00,000/- awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of eight (8) weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

25.06.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

gm

To

The Special District Judge,
MCOP Tribunal,
Salem.



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N.ANAND VENKATESH, J.

gm

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