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Civil Miscellaneous Appeal No.895 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.04.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.895 of 2024

and

C.M.P.No.8252 of 2024

The Branch Manager,
M/s.United India Insurance Co. Ltd.,
Door No.14/1-77B, Salem Main Road,
Pudhuchampalli, Raman Nagar Post,
Mettur Taluk.

... Appellant

Vs.

1.Palaniammal
W/o.Ammasi

2.Govindaraj
S/o.Ammasi

3.Natarajan
S/o.Ramasamy

4.Sulochana
W/o.Natarajan

... Respondents



Civil Miscellaneous Appeal No.895 of 2024

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 19.10.2022 made in M.C.O.P.No.60 of 2019 on the file of Motor Accident Claims Tribunal, Sub Court, Mettur.

For Appellant : Mr.S.Arunkumar

For Respondents : Mr.R.Vivekananthan
for Mr.R.Subramanian [R1 & R2]

JUDGMENT

The appellant insurance company, aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Sub Court, Mettur, in M.C.O.P.No.60 of 2019, dated 19.10.2022, has filed this appeal.

2. The respondents 1 and 2/claimants are the mother and the elder brother of the deceased Ganesan. The deceased was an agriculturist and on 10.02.2019 at about 11.00 a.m., after completing his work, he was coming along with his two cows at Bhavani-Mettur main road. At that time, the third respondent, drove the offending vehicle in a rash and negligent manner and hit the deceased and also the cows. Unfortunately, the deceased succumbed to the injuries as also the cows. It is under these



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circumstances, the respondents 1 and 2/claimants have filed the claim petition before the Tribunal seeking for 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 third respondent. Having rendered such a finding, the Tribunal proceeded to determine the compensation payable at Rs.22,02,000/- in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income/dependency	20,40,000/-
2.	Loss of love and affection	1,00,000/-
3.	Loss of cows	30,000/-
4.	Funeral expenses	20,000/-
5.	Transportation	10,000/-
6.	Damage to clothes	2,000/-
	Total	22,02,000/-

The Tribunal directed the above compensation to be paid with interest at the rate of 7.5% p.a.

4. Questioning the quantum of compensation awarded by the Tribunal, the appellant insurance company has filed the present appeal.



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5. Heard Mr.S.Arunkumar, learned counsel for appellant insurance company and Mr.R.Vivekananthan, learned counsel for respondents 1 and 2/claimants.

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

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

8. Learned counsel for appellant insurance company submitted that the Tribunal went wrong in deducting 1/3 towards personal expenses of the deceased whereas 50% ought to have been deducted considering the fact that the respondents 1 and 2/claimants are mother and elder brother of the deceased. Learned counsel further submitted that the Tribunal went wrong in fixing the compensation under the head 'loss of love and affection' at Rs.1,00,000/- and the maximum compensation per person is Rs.40,000/- only. Learned counsel also questioned the compensation awarded under the head 'funeral expenses' at Rs.20,000/-.



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9. *Per contra*, learned counsel for respondents 1 and 2/claimants submitted that the Tribunal has assigned proper reasons while awarding the compensation and it does not require the interference of this Court. Learned counsel submitted that the deceased was an agriculturist and accordingly, the income was determined and deduction was made. Submitting as above, learned counsel sought for dismissal of this appeal.

10. On carefully considering the discussion made by the Tribunal regarding fixation of notional income of the deceased, it is seen that the Tribunal has fixed the monthly income at Rs.10,000/-. There is no discussion on what basis the income was fixed and as to whether any future prospects was added to the said income. In view of the same, this Court considers it appropriate to fix the monthly income of the deceased at Rs.12,000/-. Considering the age of the deceased, 40% is added towards future prospects. Since the only dependent was the mother and the other claimant happens to be the elder brother of the deceased, 50% is deducted towards personal expenses. If so, the loss of income/dependency would be:

Monthly Income : Rs. 12,000/-



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Add: Future Prospects 40% of Rs.12,000/-	:	Rs. 4,800/- ----- Rs. 16,800/-
Annual Income (16,800 * 12)	:	Rs. 2,01,600/-
Less : Personal expenses Rs.2,01,600/- * 1/2	:	Rs. 1,00,800/- ----- Rs. 1,00,800/-
Multiplier	:	x 17
Loss of income/dependency	:	Rs.17,13,600/- -----

11. Insofar as the compensation awarded under the head 'loss of love and affection' is concerned, it can be fixed at Rs.80,000/- [Rs.40,000/- for each claimant]. The funeral expenses is reduced from Rs.20,000/- to Rs.15,000/-. This Court finds that no amount has been awarded towards loss of estate and hence, a sum of Rs.15,000/- is awarded under that head.

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



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Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income/dependency	17,13,600/-
2.	Loss of love and affection	80,000/-
3.	Loss of cows	30,000/-
4.	Funeral expenses	15,000/-
5.	Loss of Estate	15,000/-
6.	Transportation	10,000/-
7.	Damage to clothes	2,000/-
	Total	18,65,600/-

13. The compensation awarded by the Tribunal at Rs.22,02,000/- is reduced to Rs.18,65,600/-. The appellant insurance company is directed to deposit the reduced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six 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.

N.ANAND VENKATESH, J.

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

10.04.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Sub Court, Mettur.

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