



CMA No.2477 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.2477 of 2022

1.S.Sumathi

2.Minor S.Indumathi

3.Minor S.Vignesh

4.M.Ramar

5.R.Jayam

.. Appellants

.Vs.

1.P.Jayaprakash

2.Divisional Manager

The United India Insurance Co.Ltd.,
No.13A, Nethaji Road
Cuddalore.

.. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to enhance the compensation awarded by the Tribunal in M.C.O.P.No.1018 of 2015, dated 8.1.2022, on the file of the Motor Accident Claims Tribunal/Principal District Judge, Cuddalore.

For Appellants : Mr.S.Chakravarthi

For Respondents : Mr.S.Arun Kumar [R2]

No Appearance [R1]



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JUDGMENT

The claimants not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal/Principal District Judge, Cuddalore in M.C.O.P.No.1018 of 2015, dated 8.1.2022, have filed the present appeal seeking for enhancement of compensation.

2.The deceased Sakthivel was riding his two wheeler on 12.2.2015 at Villupuram – Thirukoilure Main Road and at about 14.30 hours when the vehicle was going near Alambadi Cross Road, the offending vehicle owned by the 1st respondent was driven in a rash and negligent manner and it hit the two wheeler resulting in the deceased being thrown out of the two wheeler and he sustained grievous injuries. Unfortunately, he succumbed to the injuries. It is under these circumstances, the claimants who are the wife, minor children and the parents of the deceased, 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 due to the rash and negligent driving on the part of the offending vehicle belonging to the 1st respondent. Having rendered such a



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finding, the Tribunal fixed the compensation at Rs.28,47,621/- in the following manner:

Sl.No	Compensation awarded under the head	Amount (in Rs.)
1.	For Loss of Income (Rs.23,313/- * 12 * 1/4 * 13	Rs.27,27,621/-
2.	Love and affection	Rs. 50,000/-
3.	Funeral Expenses	Rs. 15,000/-
4.	Loss of Estate	Rs. 15,000/-
5.	Consortium	Rs. 40,000/-
	Total	Rs. 28,47,621/-

4.The above compensation was directed to be paid with interest at the rate of 7.5% p.a. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed this appeal seeking for enhancement of compensation.

5.Heard Ms.Ramya V.Rao, learned counsel for the appellants, Mr.S.Arun Kumar, learned counsel for R2 and there is no appearance for R1.

6.This Court has considered the submissions made on either side and the materials available on record. This Court has also carefully gone through the award passed by the Tribunal.



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7.The main contention that was raised by the learned counsel for the appellant was that the Tribunal fixed the monthly income by relying upon Ex.P.12 and whereas, Ex.P.13 ought to have been relied upon. The learned counsel further submitted that the compensation fixed under the head of loss of love and affection also requires enhancement.

8.The Tribunal has taken into consideration Ex.P.12 and has determined the annual income at Rs.2,23,800/-. However, the Tribunal failed to take into consideration Ex.P.13 which pertains to the assessment year 2014-2015 where the annual income has been arrived at Rs.2,60,300/-.

9.If Ex.P.13 is taken into consideration, the monthly income of the deceased will come to Rs.21,690/- and if the future prospects at 25% is added to this income it works out to Rs.27,113/- per month. This will be the correct income under the head of loss of monthly income that should have been taken into consideration by the Tribunal while calculating the loss of dependency/come Hence, the total compensation that can be fixed under this head is Rs.31,72,221/- $[21690 + 25\% \times 12 \times 13 - 1/4]$.



10. Insofar as loss of love and affection, the Tribunal has fixed a gross compensation of Rs.50,000/-. The same requires enhancement and for each of the claimants 2 to 5, they are entitled for Rs.40,000/-. Thus, the compensation under the head of love and affection can be enhanced Rs.1,60,000 [Rs.40000 x 4].

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

Sl.No.	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	For Loss of Income (23,313/- x 12 x 1/4 x 13	Rs.27,27,621/-	Rs.31,72,221/-
2.	Love and affection	Rs. 50,000/-	Rs. 1,60,000/-
3.	Funeral Expenses	Rs. 15,000/-	Rs. 15,000/-
4.	Loss of Estate	Rs. 15,000/-	Rs. 15,000/-
5.	Consortium	Rs. 40,000/-	Rs. 40,000/-
	Total	Rs. 28,47,621/-	Rs.34,02,221/-

15. The compensation awarded by the Tribunal at Rs.28,47,621/- is enhanced to Rs.34,02,221/-. The respondent Insurance Company is directed to deposit the enhanced 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 four weeks from the date of receipt of this judgment.



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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.

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Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To

- 1.The Divisional Manager
The United India Insurance Co.Ltd.,
No.13A, Nethaji Road
Cuddalore.
2. Motor Accident Claims Tribunal/
Principal District Judge, Cuddalore.

N. ANAND VENKATESH., J



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