



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.3045 of 2023

1.Ambiga

2.Minor Abnashini

3.Minor Rohith

4.V.Sundaram

..Appellants

.VS.

1.Indhumathi

2.Ashok kumar

3.United India Insurance Company Ltd.,
Divisional Office
Aurbindo Road, Block-19
Neyveli-3.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award in judgement and Decree dated 11.11.2022 made in MCOP No.91 of 2019, on the file of the Subordinate Judge, Neyveli (MACT Court).

For Appellants : Mr.S.udhayakumar

For Respondents : Mr.s.Arun Kumar [R3]



JUDGMENT

The appellants who are the wife, two minor children and mother of the deceased not being satisfied with the quantum of compensation, have filed this appeal against the award passed by the Tribunal in MCOP No.91 of 2019 dated 11.11.2022, on the file of the Subordinate Judge, Neyveli (MACT Court).

2.The deceased Arulmurugan was riding a two wheeler on 14.01.2019 and was going to his office from his residence at Neyveli and at about 08.15 a.m., the offending vehicle which was also a two wheeler was driven in a rash and negligent manner by the 2nd respondent and it dashed on the vehicle driven by the deceased. The deceased was thrown out of the vehicle and he sustained grievous injuries and he succumbed to the injuries on 18.01.2019. An FIR came to be registered against the rider of the offending vehicle. It is under these circumstances, the claim petition came to be filed 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 rider of the offending vehicle.

4.The Tribunal having rendered the above finding proceeded to fix the total



compensation at Rs.86,98,000/- under various heads as follows:

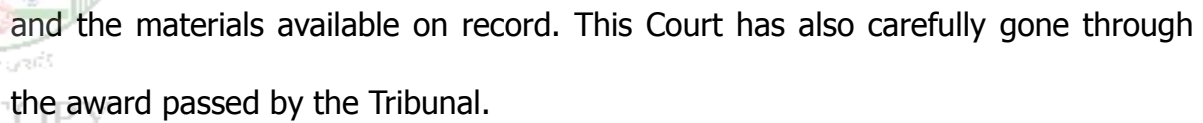
Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income 1,00,80,000/- Less: income tax 15% 15,12,000/- -----	85,68,000/-
2.	Loss of consortium (1 st appellant)	40,000/-
3.	Loss of love and affection (appellants 1 to 4 each Rs.15,000/-)	60,000/-
4.	Loss of consortium	5,000/-
5.	Funeral Expenses	15,000/-
6.	Transportation Expenses	10,000/-
	Total	86,98,000/-

5.The above compensation was directed to be paid 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.S.udhayakumar, learned counsel for the appellants and Mr.S.Arunkumar, learned counsel for R3 – Insurance Company.

8.This Court has carefully considered the submissions made on either side



10. It is quite clear that the salary was revised and the same was given retrospective effect from 2017. The arrears of salary was also received by the 1st claimant which is evident from Ex.P.17. Therefore, the revised salary has to be taken into consideration while fixing the compensation under the head of loss of dependency. Accordingly, the compensation under the head 'loss of dependency' is calculated as follows:



Monthly income fixed	:	Rs.79679/-
(rounded off to)	:	Rs.79,680/-
Future prospects to be added	:	30%
Notional monthly income arrived at	:	Rs. 79,680/- + 30%
		Rs. 23,904/-

		Rs.1,03,584/-
After deducting 1/4 for personal expenses:		Rs. 25,896/-

		Rs. 77,688/-
Multiplier to be adopted		14
Loss of Dependency Rs.77,688 * 12 * 14		Rs.1,30,51,584/-
Less: 15%Income Tax		Rs. 19,57,738/-

		Rs.1,10,93,846/-

	rounded off to	Rs.1,10,93,850/-

11. The other ground that was raised by the learned counsel for the appellants pertains to the compensation fixed under the head 'loss of love and affection' for claimants 2 to 4. The Tribunal has fixed only a sum of Rs.60,000/- for claimants 2 to 4 and this Court is inclined to enhance the same to Rs.40,000/- to each of the claimants 2 to 4. Thus, the compensation under the head 'loss of love and affection' is fixed at Rs.1,20,000/- [Rs.40,000/- * 3].

12.The compensation that has been fixed under the other heads are



reasonable and it does not require the interference of this Court.

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13.In the light of the above discussion, the compensation fixed by the Tribunal is modified as follows:

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income	1,10,93,850/-
2.	Loss of consortium (1 st appellant)	40,000/-
3.	Loss of love and affection (appellants 2 to 4) (Rs.40,000/- * 3)	1,20,000/-
4.	Loss of consortium	5,000/-
5.	Funeral Expenses	15,000/-
6.	Transportation Expenses	10,000/-
	Total	1,12,83,850/-

14.The compensation awarded by the Tribunal at Rs.86,98,000/- is enhanced to Rs.1,12,83,850/-. The 3rd 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 six weeks from the date of receipt of this judgment. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants/claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

15.In the result, the Civil Miscellaneous Appeal is partly allowed in the above



terms. No costs.

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25.07.2024

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

To
Subordinate Judge, Neyveli (MACT Court).



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N. ANAND VENKATESH., J

kp

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