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Civil Miscellaneous Appeal No.1646 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1646 of 2024

1. Mr.P.Rajendran

2. P.Sudha

3. R.Kumar

4.Rubini

... Appellants

Vs.

1. Mr.Arun Kumar A

2.Reliance General Insurance Company Limited,
Reliance House, No.6, Haddows Road,
Nungambakkam, Chennai 600 034

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree made in M.C.O.P.No.2982 of 2022 dated 02.03.2024 on the file of the Motor Accident Claims Tribunal (Chief Judge, Court of Small Causes, Chennai).

For Appellant : Mr.K.Balaji



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For Respondents : M/s.G.Sugumari for R2

JUDGMENT

The claimants, who are the husband and children of the deceased Rani, not being satisfied with the quantum of compensation awarded by the Tribunal have filed this appeal challenging the award passed by Motor Accident Claims Tribunal (Chief Judge, Court of Small Causes, Chennai in M.C.O.P.No.2982 of 2022 dated 02.03.2024.

2. The deceased Rani was travelling as a pillion rider in a two wheeler on 30.05.2022 at Salem to Athur main road and at about 14.50 hours, when the vehicle was going near the Government Boys Higher Secondary School, the offending vehicle which was a lorry was coming from behind and was driven in a rash and negligent manner. The offending vehicle hit the two wheeler. As a result of which, the deceased was thrown out of the vehicle and she sustained grievous injuries and she succumbed to the injuries. 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 driver of the offending vehicle.

4. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.7,94,000/- under various heads as follows

:-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of Income / Dependency	Rs.5,94,000/-
2.	Loss of Estate	Rs. 15,000/-
3.	Loss of Consortium	Rs.1,60,000/-
4.	Funeral expenses	Rs. 15,000/-
5.	Transportation charges	Rs. 10,000/-
	Total	Rs.7,94,000/-

5. The above compensation was directed to be paid by the Insurance company with interest at the rate of 7.5% per annum.



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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.K.Balaji, learned counsel for appellants/claimants and M/s.G.Sugumari, learned counsel for 2nd respondent/Insurance company.

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

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

10. The main ground that was urged by the learned counsel for Appellants is with regard to the notional monthly income fixed by the Tribunal and 50% which was deducted towards the personal expenses of the deceased.



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11. The accident had taken place in the year 2022. Even though the claimants came up with a case that the deceased was a vegetable vendor and earning a sum of Rs.2,000/-per day, there was no proof with regard to the avocation as well as the income earned by the deceased. Therefore, the Tribunal fixed a sum of Rs.10,000/- per month as notional monthly income. This amount is clearly on the lower side. It is already noted that the accident had taken place in the year 2022. Therefore, this Court is inclined to fix Rs.15,000/- as notional monthly income. 10% can be added towards future prospects.

12. The next issue is with regard to the deduction made towards personal expenses. Apart from the husband, there are three children, who are all major. The Tribunal has deducted $\frac{1}{2}$ towards personal expenses. Considering the fact that there were four legal heirs, this Court is inclined to fix $\frac{1}{3}$ towards the personal expenditure of the deceased.

13. In view of the above, the compensation under the head of loss of income / dependency is calculated as follows :-

Monthly Income : Rs. 15,000/-



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Add: Future Prospects 10% of Rs.15,000/-	:	Rs. 1,500/- ----- Rs. 16,500/-
Annual Income (16,500 * 12)	:	Rs. 1,98,000/-
Less : Personal expenses Rs.1,98,000/- *1/3	:	Rs. 66,000/- ----- Rs. 1,32,000/-
Multiplier	:	x 9 -----
Loss of income/dependency	:	Rs.11,88,000/- -----

14. The compensation that has been granted under the other heads are reasonable and it does not require the interference of this Court.

15. In the light of the above discussion, this Court modifies the compensation 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	Rs.11,88,000/-
2.	Loss of Estate	Rs. 15,000/-
3.	Loss of Consortium	Rs.1,60,000/-
4.	Funeral expenses	Rs. 15,000/-



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<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
5.	Transportation charges	Rs. 10,000/-
	Total	Rs.13,88,000/-

16. The compensation awarded by the Tribunal at Rs.7,94,000/- is enhanced to Rs.13,88,000/-. The 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. Insofar as the enhanced compensation is concerned, on such deposit made by the Insurance company, the 1st appellant will be entitled to withdraw Rs.2,98,000/- and the other appellants 2 to 4 will be entitled to withdraw Rs.1,00,000/- each. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellant. 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



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above terms. No costs.

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Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To, Motor Accident Claims Tribunal (Chief Judge, Court of Small Causes, Chennai).

N.ANAND VENKATESH.,J



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