



C.M.A.No.3282 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3282 of 2024

1.S.Prembai
2.M.Kavitha Bai
3.S.Viswanath Rao

... Appellants

Vs.

1.G.Ashok
2.P.Madhu
3.The Divisional Manager,
United India Insurance Company Limited,
Divisional Office, Durgabhavani Square,
Opp. Railway Station,
Denkanikottai Road,
Hosur-635 109.

4.The Managing Director,
TNSTC (Salem) Limited.

... Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the



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Motor Vehicles Act, 1988, against the judgment and decree dated 25.11.2021 made in M.C.O.P.No.989 of 2018 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Krishnagiri.

For Appellants : Mr.S.P.Yuvaraj

For Respondents : Mr.R.Rathnatharaj for R3

J U D G M E N T

Aggrieved by the compensation awarded by the Tribunal in M.C.O.P.No.989 of 2018 vide judgment and decree dated 25.11.2021, the appellants/claimants have come before this Court challenging the same by filing the present civil miscellaneous appeal.

2. It is the case of the claimants that, on 28.04.2017, at about 16.30 hours, the deceased, namely, Shivaji Rao, was pushing his cart on the left side of the road with Panipoori for selling near Anandha Bhavan Hotel. At that time, the TATA ACE Vehicle belonging to the first respondent, who has purchased the vehicle from the second respondent and insured by the second respondent with the third respondent came in the opposite direction



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in a rash and negligent manner, without making horn and dashed on the pushing cart of the said Shivaji Rao, due to which, he was thrown away on the road and sustained head injury and other multiple injuries all over the body. Due to hit by TATA ACE, pushing cart hit on the bus bearing Reg.No.TN 29 N 1759. Immediately, he was taken to the Hospital for treatment and he was given treatment in the intensive care unit of the Hospital and despite, he died on 05.05.2017. Under these circumstances, the claimants had filed the claim petition.

3. Before the Tribunal, on the side of the claimants, P.W.1 and P.W.2 were examined and Exs.P1 to P14 were marked. On the side of the respondent Nos.1 to 3, no witness was examined and no document was marked. On the side of the respondent No.4, R.W.1 was examined and no document was marked. The Tribunal, after analysing the oral and documentary evidence available on record, awarded a compensation of Rs.8,96,179/- and directed the respondent Nos.1 to 3 jointly and severally to pay the same to the appellants / claimants.



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4. The learned counsel appearing for the claimants /appellants submitted that the deceased was a Panipoori seller and he can earn a sum of Rs.20,000/- per month, but the Tribunal has taken the monthly income of the deceased as Rs.7,000/- per month only and the compensation awarded under the other heads by the Tribunal is also on the lower side. Hence, he prays for enhancement of compensation.

5. The first and second respondents remained ex-parte before the Tribunal.

6. Per contra, the learned counsel appearing for the third respondent / Insurance Company submitted that the accident had occurred due to negligence on the part of the deceased and the Tribunal, taking into consideration all the relevant documents, has rightly fixed the compensation, which does not require any interference.



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7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

8. The factum of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. The only grievance of the claimant is with regard to the quantum of compensation awarded.

9. The accident had taken place in the year 2017 and the claimants came up with a case that the deceased was a Panipoori seller and he was earning a sum of Rs.20,000/- per month and the Tribunal has fixed only a sum of Rs.7,000/- as the notional monthly income. It is definitely on the lower side. This Court is inclined to fix the monthly income at Rs.13,000/-. The Tribunal has rightly granted 10% towards future prospects and applied multiplier '11'. The compensation under the head 'loss of dependency' is calculated as follows:



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Monthly Income	:	Rs. 13,000/-
Add: Future Prospects 10% of Rs.13,000/-	:	Rs. 1,300/- ----- Rs. 14,300/-
Annual Income (14,300 * 12)	:	Rs. 1,71,600/-
Less : Personal expenses Rs.1,71,600/- * 1/3	:	Rs. 57,200/- ----- Rs. 1,14,400/- x 11 -----
Multiplier	:	
Loss of dependency	:	Rs.12,58,400/- -----

10. The compensation awarded under the heads 'funeral expenses', 'loss of estate', 'loss of consortium' and 'medical bills' are just and reasonable and it does not require the interference of this Court.

11. In the above circumstances, the compensation awarded by the Tribunal under the below mentioned heads is modified as under:



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<i>S.No</i>	<i>Head of Compensation</i>	<i>Amount awarded by the Tribunal (Rs)</i>	<i>Amount awarded by this Court (Rs)</i>
1	Loss of Dependency	Rs.6,77,688/-	Rs.12,58,400/-
2	Funeral Expenses	Rs.15,000/-	Rs.15,000/-
3	Loss of Estate	Rs.15,000/-	Rs.15,000/-
4.	Loss of Consortium	Rs.1,20,000/-	Rs.1,20,000/-
5	Medical Bills	Rs.68,491/-	Rs.68,491/-
	Total	Rs.8,96,179/-	Rs.14,76,891/-

12. In the result, this civil miscellaneous appeal is allowed in part and the compensation awarded by the Tribunal at Rs.8,96,179/- is hereby enhanced to Rs.14,76,891/- together with interest @ 7.5% per annum from the date of filing of claim petition till the date of deposit. The second respondent / Insurance Company is directed to deposit the entire award amount now determined by this Court along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of M.C.O.P.No.989 of 2018 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Krishnagiri. On such deposit, the appellants are permitted to



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withdraw the award amount now determined by this Court, along with interest and costs, less the amount if any, already withdrawn, as per the apportionment fixed by the Tribunal by making proper application before the Tribunal. No costs.

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NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

1. The Motor Accidents Claims Tribunal,
Additional District Court, Krishnagiri.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

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