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C.M.A.No.2925 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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- 1.Sumathi
- 2.Minor.Kavash
- 3.Minor.Monish

Minors 2 and 3 are
Rep. by their next friend Mother
Sumathi

- 4.Thailammal
- 5.Venkatachalam

... Appellants

Vs.

- 1.Palanisamy (died)
- 2.National Insurance Company Limited,
Sankagiri Durg Division,
Door No.19/B, S.R.Complex,
Rajamani Thottam,
Bhavani Main Road,
NH 47, Sankagiri Taluk,
Salem Dist.

Having Branch Office at 1st Floor,
L.R.N.Building Saradha College Road,
Salem Dist.

- 3.Murugesan
- 4.Palaniyammal (Died)
- 5.Mohanraj (died)

... Respondents



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Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal and enhance the award dated 01.09.2023 in M.C.O.P.No.643 of 2021 on the file of Special District Judge, MCOP Tribunal, Salem as prayed for.

For Appellants : Mr.R.Navaneetha Krishnan
For Respondents : Mr.C.Paranthaman for R2
R3 to R5 – NDW vide order dt.29/4/24

J U D G M E N T

This appeal has been filed by the appellants/ claimants challenging the order passed in M.C.O.P.No.643 of 2021 dated 01.09.2023 by the learned Special District Judge, MCOP Tribunal, Salem.

2.The learned counsel appearing for the appellants submitted that on 31.05.2021 at about 8.30 a.m., the deceased Vaithi was riding a two wheeler bearing Registration No.T.N.52-P-5866 on the extreme left in Sankari – Konganapuram Main Road near Varadhakankattanur Arunthathiar Theru. At that time, the driver of the lorry bearing Registration No.TN-52-F-4300 which came in the opposite direction, drove the vehicle in a rash and negligent manner



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and dashed against the two wheeler, due to which, he died on the spot.

3.The learned counsel appearing for the appellants further submitted that thereafter, the wife, sons and parents of the deceased Vaithi/ appellants/ claimants filed claim petition before the Motor Accidents Claims Tribunal, claiming a sum of Rs.75 Lakhs as compensation for the death of Vaithi. After adjudication, the Tribunal awarded a sum of Rs.16,05,000/- as compensation along with interest at the rate of 7.5% per annum from the date of petition till the date of realization with proportionate costs. Aggrieved by the same, the claimants have preferred this appeal seeking enhancement in compensation.

4.The learned counsel appearing for the appellants further submitted that the accident is of the year 2021 and the deceased was owning a lorry and was earning a sum of Rs.50,000/- per month, however, the Tribunal fixed the notional monthly income of the deceased as Rs.10,000/- per month including 40% future prospects and awarded only a sum of Rs.1 Lakh for love and affection and awarded a meagre compensation to the claimants and hence, the



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appellants are entitled for enhanced compensation.

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5.Per contra, the learned counsel appearing for the second respondent Insurance Company vehemently contended that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent and perused the materials available on record.

7.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the quantum of compensation. Hence, there is no need for any discussion with regard to negligence aspect.

8.The tribunal after elaborately discussing the factual aspects awarded a sum of Rs.14,40,000/- for loss of income, Rs.40,000/- for loss of consortium, Rs.1,00,000/- for loss of love and affection, Rs.25,000/- for funeral expenses and arrived at a total compensation



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of Rs.16,05,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of realization.

9.The deceased seems to have owned a lorry and hence he could have easily earned a sum of Rs.15,000/- per month. Hence, this Court fix a sum of Rs.15,000/- as the monthly notional income of the deceased. The Tribunal has rightly awarded 40% of income towards future prospects and has rightly deducted $\frac{1}{4}$ of the amount towards personal expenses and has rightly adopted the multiplier 16. Hence, the amount awarded for loss of income works out to Rs.30,24,000/- [Rs.15,000/- X 40% = Rs.6,000/-; Rs.15,000/- + Rs.6,000/- = Rs.21,000/-; Rs.21,000 X 25% = Rs.5,250/-; Rs.21,000/- - Rs.5,250/- = Rs.15,750/-; Rs.15,750/- X 12 X 16 = Rs.30,24,000/-].

10.The amount awarded under the head funeral expenses, in the opinion of this Court is just and reasonable and the same are confirmed. The amount awarded under the head loss of love and affection, in the opinion of this Court is low and this Court is inclined to enhance the amount awarded under the said head. Accordingly, the amount awarded for loss of love and affection is enhanced to



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Rs.2,50,000/- [each Rs.50,000/-] from Rs.1,00,000/-. The amount awarded under the head loss of consortium, in the opinion of this Court is not necessary and the same is deleted since amount is awarded under the head loss of love and affection. This Court is of the considered opinion that some amount have to be awarded under the heads loss of estate and transportation charges. Accordingly, a sum of Rs.25,000/- is awarded under the head loss of estate and a sum of Rs.10,000/- is awarded under the head transportation charges.

11.Accordingly, the compensation amount is re-assessed as follows:

S.No.	Description	Amount Awarded by the Tribunal	Amount Awarded by this Court
1.	Loss of income	Rs.14,40,000/-	Rs.30,24,000/-
2.	Funeral Expenses	Rs. 25,000/-	Rs. 25,000/-
3.	Loss of consortium	Rs. 40,000/-	---
4.	Loss of love and affection	Rs. 1,00,000/-	Rs. 2,50,000/-
5.	Loss of estate	---	Rs. 25,000/-
6.	Transportation charges	---	Rs. 10,000/-
	Total	Rs.16,05,000/-	Rs.33,34,000/-

12.The appellants/ claimants are entitled to total compensation of Rs.33,34,000/- along with interest at the rate of 7.5% p.a. from



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the date of petition till the date of realization.

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13.The civil miscellaneous appeal is partly allowed. The order passed in M.C.O.P.No.643 of 2021 dated 01.09.2023 by the learned Special District Judge, MCOP Tribunal, Salem, is modified to the above extent.

14.The second respondent Insurance Company is directed to deposit the modified/ enhanced award amount before the Tribunal within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants 1, 4 and 5 are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. The appellants 2 and 3 are permitted to withdraw their shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to their majority. If the appellants 2 and 3 are still minors, their shares shall be kept in an interest yielding fixed deposit with anyone of the Nationalized Bank,



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initially, for a period of three years to be renewed at periodic intervals until they attain majority and the interest derived from out of the said share of the minors shall be paid to the first claimant/ mother every quarter to be utilized for the welfare of the said minors.

15.The appellants/ claimants shall not be entitled to any interest for the period of delay, if any, in filing the appeal. The appellants/ claimants are directed to pay the requisite Court fee for the enhanced compensation amount, if required. The learned Special District Judge, MCOP Tribunal, Salem, shall disburse the enhanced amount upon production of certified copy showing proof of payment of Court fee by the appellants/ claimants.

16.The civil miscellaneous appeal is partly allowed. No costs.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Special District Judge,
MCOP Tribunal,
Salem.

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M.DHANDAPANI,J.
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