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Civil Miscellaneous Appeal No.1169 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1169 of 2024

R.Rani

D/o.Ramasamy

... Appellant

Vs.

1.K.Saravanan

S/o.Kaliyannan

2.M/s.Reliance General Insurance Company Ltd.,

Sree Lakshmi Complex,

1st Floor, Omalur Main Raod,

Bharathi Street, Swarnapuri,

Salem District - 636 004.

... Respondents

[The first respondent remained *ex parte* before the Tribunal; hence notice may be dispensed with for the first respondent in this appeal]

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 05.02.2020 made in M.C.O.P.No.893 of 2017 on the file of Motor Accident Claims Tribunal, Sessions (Fast Track Mahila) Court, Namakkal.

For Appellant : Mr.Ma.P.Thangavel

For Respondents : Mr.P.Suresh Srinivasan [R2]



JUDGMENT

WEB COPY The appellant/claimant, who is the mother of the deceased Jeevitha, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Sessions (Fast Track Mahila) Court, Namakkal, in M.C.O.P.No.893 of 2017, dated 05.02.2020, has filed this appeal.

2. The case of the claimant is that her daughter Jeevitha was travelling as a pillion rider on 12.02.2017 in a two wheeler towards her residence from Manickampalayam and at about 8.15 p.m., the offending vehicle, a two wheeler, which came in the opposite direction, was ridden in a rash and negligent manner and it hit the two wheeler as a result of which the deceased was thrown out of the two wheeler and she sustained grievous injuries and she died on 16.02.2017. A First Information Report came to be registered against the rider of the offending vehicle in Crime No.42 of 2017. It is under these circumstances, the claim petition came to be filed before the Tribunal.

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. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.11,98,700/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of earning	9,07,200/-
2.	Medical expenses	2,51,500/-
3.	Loss of estate	15,000/-
4.	Funeral expenses	15,000/-
5.	Transport	10,000/-
	Total	11,98,700/-

The above compensation was directed to be paid along with interest at 7.5% p.a.

4. The claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal seeking compensation.

5. Heard Mr.Ma.P.Thangavel, learned counsel for appellant/claimant and Mr.P.Suresh Srinivasan, learned counsel for second respondent insurance company.



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

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

8. The main ground urged by learned counsel for appellant is with regard to the notional monthly income fixed by the Tribunal and also non-grant of compensation under the head 'loss of love and affection'.

9. The deceased, in this case, had completed B.Sc and she was aged about 21 years at the time of accident. It is claimed that she was doing tailoring work and was earning Rs.15,000/- p.m. There was no evidence regarding the avocation of the deceased and also the monthly income earned by her. The Tribunal has fixed the notional monthly income at Rs.6,000/- p.m., which is clearly on the lower side. Considering the qualification of the deceased and also her age and also the fact that the mother was dependant on her income, this Court is inclined to fix a sum of Rs.13,000/- as notional monthly income and 40%



can be added towards future prospects. Thus, the compensation under the

head 'loss of income/dependency' is calculated as follows:

Monthly Income	:	Rs. 13,000/-
Add: Future Prospects	:	Rs. 5,200/-
40% of Rs.13,000/-		-----
		Rs. 18,200/-
Annual Income	:	Rs. 2,18,400/-
(18,200 * 12)		
Less : Personal expenses		
Rs.2,18,400/- * 1/2	:	Rs. 1,09,200/-

		Rs. 1,09,200/-
Multiplier	:	x 18

Loss of income/dependency	:	Rs.19,65,600/-

10. The Tribunal has not granted any compensation under the head 'loss of love and affection' and hence, a sum of Rs.40,000/- is granted under this head.

11. The compensation granted under the other heads does not require the interference of this Court.

12. For the foregoing reasons, the compensation awarded by the



Tribunal is modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of earning	9,07,200/-	19,65,600/-
2.	Medical expenses	2,51,500/-	2,51,500/-
3.	Loss of estate	15,000/-	15,000/-
4.	Funeral expenses	15,000/-	15,000/-
5.	Transport	10,000/-	10,000/-
6.	Loss of love and affection	-	40,000/-
	Total	11,98,700/-	22,97,100/-

13. The compensation awarded by the Tribunal at Rs.11,98,700/- is enhanced to Rs.22,97,100/-. The second respondent insurance company is directed to deposit the compensation awarded by this Court, 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 (6) 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. 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 partly allowed. No

costs.

<https://www.mhc.tn.gov.in/judis>



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Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No
gm

To

The Motor Accident Claims Tribunal,
Sessions (Fast Track Mahila) Court,
Namakkal.

N.ANAND VENKATESH, J.

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