



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.3101 of 2024

1. V.Lavanya
2. Minor V.Likitha
D/o.Ramu

3. Minor V.Pavani
D/os.Ramu

Respondents 2 & 3 are represented by their mother
first appellant

4. V.Santhamma
W/o.Venkataiah

... Appellants

Vs.

1.K.R.Suresh Kumar

2. The New India Assurance Co. Ltd.,
Motor Third Party Claims Office,
No.232, Bombay Mutual Building,
6th Floor, NSC Bose Road, Chennai.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 23.12.2021 in MCOP. No.4693 of 2019 passed by the Motor Accident Claims Tribunal (Chief Judge, Small Causes court) Chennai.



For Appellant : Mr. R.Nalliyappan

For Respondents : Mr.C.Ramesh Babu R2
R1 NDW

JUDGMENT

The first appellant is the wife, the second and third appellants are children and the 4th appellant is the mother of the deceased Ramu. The claimants not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal.

2. The case of the claimants is that on 05.08.2019 at about 22.30 hours, when the deceased was riding the motorcycle bearing Reg. no.AP 26 CF 3794 at Puthalapettu Naidupetta Road, NH-71 at Renugunta Mandal, Yogananda College Cross Road, at that time, a bus bearing Reg. No.AR 01 J 2610 was driven by its driver, in a rash and negligent manner and dashed against the motorcycle. Due to which, the deceased sustained fatal injuries and died on the way to the hospital. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation for a sum of Rs.48,00,000/-

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 bus and awarded Rs.17,65,000/- towards compensation for the death of the deceased Ramu under various heads and the liability fixed the liability as against first and second respondents.

4. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

5. The learned counsel for the appellants submitted that the age of the claimant is 44 years at the time of the accident and he was doing business and earned Rs.30,000/- per month. Without considering the same, the Tribunal has fixed the notional income at Rs.10,000/- which is very meagre. Therefore, this Court may interfere with the impugned award and modify the same.

6. Per contra, the learned counsel appearing for the second



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respondent-Insurance Company contended that due to rash and negligent driving of the driver of the bus, the accident had happened. The Tribunal after considering the witnesses and documentary evidences, fixed the compensation which is just and proper and the same does not need any interference. Hence, this Court may dismiss the petition.

7. Heard the learned counsel for appellant/claimant and the learned counsel for 2nd respondent.

8. This Court has 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 fact in the present case is not in dispute and the manner of the accident is also not in dispute. For enhancement of compensation, the present appeal has been filed.



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11. In the instant case, the deceased was aged about 44 years at the time of the accident and he was doing business and earning a sum of Rs.30,000/- per month. The Tribunal has fixed the notional monthly income at Rs.10,000/- including future prospects since there was no proof regarding the avocation or the monthly income of the deceased. The accident had taken place on 05.08.2019 and the notional monthly income fixed by the Tribunal is very much on the lower side. Considering the age of the deceased, the age of the claimants and also the year in which the accident had taken place, this Court is inclined to fix the notional monthly income at Rs.15,000/-. The age of the deceased was 44 years and therefore, 25% is added towards future prospects. If so, the loss of income /dependency would be:

Monthly Income	:	Rs. 15,000/-
Add: Future Prospects	:	Rs. 3,750/-
25% of Rs.15,000/-	:	-----
		Rs. 18,750/-
Annual Income	:	Rs. 2,25,000/-
(18,750 * 12)	:	
Less : Personal expenses	:	
Rs.2,25,000/- *1/4	:	Rs. 56,250/-

		Rs. 1,68,750/-



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Multiplier : x 14
Loss of income/dependency : Rs.23,62,500/-

12. The other heads fixed by the Tribunal is just and reasonable.
This Court does not warrant any interference with regard to the other heads.

13. In the light of the above discussion, this Court modifies the compensation in the following manner:-

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of dependency	15,75,000	23,62,500
Loss of Consortium	1,60,000	40,000
Loss of Love and affection		1,20,000 (40,000 X 3 persons)
Funeral Expenses	15,000	15,000
Loss of estate	15,000	15,000
Total	17,65,000	25,52,500

14. The compensation awarded by the Tribunal at Rs.17,65,000/- is enhanced to Rs. 25,52,500/-. The liability fixed by the Tribunal is



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confirmed. The respondents are directed to deposit the entire award amount, 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, the deficit court fee, if not paid, shall be paid by the appellants. The first appellant is entitled to get the award amount Rs.6,00,000/- and the second and third appellants are entitled to get the award amount of Rs.8,00,000/- each with proportionate interest and costs. The 4th appellant is entitled to get the award amount of Rs.3,52,500/- with proportionate interest. In respect of the minor share, the Tribunal shall deposit the said amount in a Fixed Deposit in any of the nationalized bank for a period of one year and renewable thereafter. Upon attaining majority, the second and third appellants are directed to withdraw the award amount. Till they attain majority, the first appellant is permitted to withdraw the interest amount periodically.

M.DHANDAPANI,,J

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15. In the result, the Civil Miscellaneous Appeal is allowed.



No costs.
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02.12.2024

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

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