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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1993 of 2023

Devi

..Appellant

.VS.

1.Dhanalakshmi Srinivasan College of Engineering and Technology
East Coast Road, Mamallapuram, Kancheepuram District - 621 212.

2.M/s.Bajaj Allianz General Insurance Company Ltd.,
Door No.11, (Office No.6A) Peoples Part 3rd Floor,
Government Arts College Road, Coimbatore - 641 018.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Award in MCOP No.75 of 2016 dated 15.03.2023 on the file of the Motor Accident Claims Tribunal/Additional District Judge, Chengalpattu.

For Appellant : Mr.R.B.Rishab

For Respondents : Mr.S.Arunkumar for R2
R1-No Appearance

JUDGMENT

The claimant who is the mother of the deceased Yamuna Devi not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal against the Award passed by the Motor Accident Claims Tribunal



/ Additional District Judge, Chengalpattu in MCOP No.75 of 2016 dated 15.03.2023 and has sought for enhancement of compensation.

2.The case of the claimant is that the deceased Yamuna Devi was standing on the extreme edge of the ECR Road near Bluebay Hotel on 24.02.2016 and about 08.15 hours, the offending vehicle viz., the bus belonging to the 1st respondent was driven in a rash and negligent manner and it hit the deceased resulting in grievous injuries and the deceased died on the spot. It is under these circumstances, the claim petition came to be filed by the mother 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 of the offending vehicle belonging to the 1st respondent. Having rendered such a finding, the Tribunal proceeded to fix the total compensation at Rs.49,64,042/- in the following manner:



S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Earning	48,82,042
2.	Transport to Hospital	5,000
3.	Funeral Expenses	16,500
4.	Loss of Estate	16,500
5.	Loss of Consortium	44,000
	Total	49,64,042

4.The above compensation was directed to be paid along with interest at the rate of 6% per annum.

5.The claimant not being satisfied with the quantum of compensation fixed by the Tribunal has filed the present appeal seeking for enhancement of compensation.

6.Heard Mr.R.B.Rishab, learned counsel appearing on behalf of the appellant and Mr.S.Arunkumar, learned counsel appearing on behalf of the 2nd respondent.

7.This Court has carefully considered the submissions made on either side and also the materials available on record.



8.The learned counsel for the appellant mainly raised two grounds. The first ground was that the Tribunal had fixed a wrong multiplier in this case and instead of fixing the multiplier at 16, the Tribunal had fixed the multiplier as 15. The other ground that was raised by the learned counsel for the appellant was that the Tribunal had granted interest at the rate of 6% per annum and whereas, it ought to have granted 7.5% per annum.

9.In the instant case, it is clear from Ex.P11 and Ex.P7, that the age of the deceased was 35 years. In view of the same, the Tribunal ought to have adopted 16 multiplier, instead, the Tribunal had erroneously applied 15 multiplier which requires the interference of this Court.

10.Apart from the above, the Tribunal had fixed the rate of interest at 6% which also requires interference and the same is enhanced to 7.5%.

11.On carefully going through the Award, it is seen that the Tribunal had calculated the amount to be deducted towards Income Tax after including 50% towards future prospects and after deducting half of it. This method that was followed by the Tribunal is not correct. The income tax must be deducted from the annual income of the deceased which was fixed based on the salary slip



which was marked as Ex.P6.

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12. In the light of the above discussion, the compensation awarded by the Tribunal is modified as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Earning (Rs.37095/- + 50% x 12 - (Rs.58,542/- Tax) x 1/2 x 16)	48,73,344
2.	Transport to Hospital	5,000
3.	Funeral Expenses	16,500
4.	Loss of Estate	16,500
5.	Loss of Consortium	44,000
	Total	49,55,344

13. The compensation awarded by the tribunal at Rs.49,64,042/- is reduced to Rs.49,55,344/-. 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 four weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.



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N. ANAND VENKATESH., J

SSR

In the result, the Civil Miscellaneous Appeal is disposed of in the above terms. No costs.

23.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
SSR

To

The Motor Accident Claims Tribunal/Additional District Judge, Chengalpattu.

CMA No.1993 of 2023