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Civil Miscellaneous Appeal Nos.3467 and 3468 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal Nos.3467 and 3468 of 2024

Prayer in C.M.A.No.3467 of 2024

1.Nasili

2.Rafeeq Abdulrahim

3.Rashad

4.Minor Nazeem

5.Minor Hajara

(minors rep.by his next friend/natural guardian
Rafeeq Abdulrahim)

... Appellants

Vs.

1.Pralhad Ramachandra Ingale

2.National Insurance Company Limited,
Branch Office-III, Salem.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.06.2022 made in M.C.O.P.No.254 of 2019 on the file of Motor Accident Claims Tribunal, Special District Judge, Salem.



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Prayer in C.M.A.No.3468 of 2024

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1.Fousiya Jabbar
W/o.Abdul Jabbar

2.Abdul Jabbar
S/o.C.H.Mahinkupti

3.Minor P.P.Fathima

(minor rep.by his next friend/natural guardian
Abdul Jabbar)

... Appellants

Vs.

1.Pralhad Ramachandra Ingale

2.National Insurance Company Limited,
Branch Office-III, Salem.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.06.2022 made in M.C.O.P.No.253 of 2019 on the file of Motor Accident Claims Tribunal, Special District Judge, Salem.

In both appeals

For Appellants : Mr.S.P.Yuaraj

For Respondents : Mrs.R.Sreevidhya [R2]



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COMMON JUDGMENT

Both these appeals can be taken up together since the issue involved is common and hence, this common judgment is passed.

2. The case of the claimants is that on 07.11.2018 at about 09.10 a.m., hours, when one Sahal and Rasneef were travelling in a two-wheeler bearing Reg.No.KA 13-AM-5735 in Krishnagiri-Attur main road near Annapoorna Hotel, the lorry bearing Reg.No.KA-22-B-9697 was driven by its driver in a rash and negligent manner and hit against the two wheeler, due to which, they sustained grievous injuries and died. It is under these circumstances, the claimants have filed the claim petitions in M.C.O.P.Nos.253 & 254 of 2006 before the Motor Accident Claims Tribunal, Special District Court, Salem.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the accident has occurred only due to the rash and negligent driving on the part of the driver of the lorry belonging to the first respondent. While



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deciding the compensation under various heads, the Tribunal came to a conclusion that the following compensation can be awarded:

M.C.O.P.No.253 of 2019 [C.M.A.No.3468 of 2024]

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income	10,80,000/-
2.	Loss of Love and affection	60,000/-
3.	Funeral Expenses	25,000/-
	Total	11,65,000/-

The amount of Rs.11,65,000/- was directed to be paid along with interest at 7.5% p.a.

M.C.O.P.No.254 of 2019 [C.M.A.No.3467 of 2024]

Sl.No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income	10,80,000/-
2.	Loss of Love and affection	1,00,000/-
3.	Funeral Expenses	25,000/-
	Total	12,05,000/-

The amount of Rs.12,05,000/- was directed to be paid along with interest at 7.5% p.a.



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4. The appellants/claimants, not being satisfied with the quantum of compensation awarded by the Tribunal, have filed these appeals seeking enhancement of compensation.

5. The learned counsel appearing for the appellants/claimants submits that the compensation awarded by the Tribunal is very much on the lower side, hence, the present appeals have been filed seeking for enhancement of compensation.

6. The learned counsel appearing for the second respondent Insurance Company submitted that the Tribunal has passed a reasonable award and the same does not require the interference of this Court.

7. The age of the deceased in C.M.A.No.3467 of 2024 was 24 years as per Ex.P2/Postmortem Certificate at the time of accident and the accident had taken place in the year 2018. However, the monthly income of the deceased along with the future prospects of 40% was fixed as Rs.10,000/- which is on the lower side. Hence, this Court is inclined to



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increase the monthly income to Rs.15,000/- p.m, by adding 40% future prospects. If so, the loss of income/dependency would be:

Monthly Income	:	Rs. 15,000/-
Add: Future Prospects	:	Rs. 6,000/-
40% of Rs.15,000/-		-----
		Rs. 21,000/-
Annual Income	:	Rs. 2,52,000/-
(21,000 * 12)		
Less : Personal expenses		
Rs.2,52,000/- * 1/2	:	Rs.1,26,000/-

		Rs. 1,26,000/-
Multiplier	:	x 18

Loss of income	:	Rs.22,68,000/-

8. Insofar as the compensation awarded under the head loss of love and affection to the claimants are concerned, the Tribunal has awarded only a sum of Rs.20,000/- to each of them, but as laid down in ***National Insurance Co. Ltd. Vs. Pranay Sethi & others (2017 (16) SCC 680)***, the amount that could be awarded under the said head is Rs.40,000/- to each of the appellants/claimants, and accordingly, the said amount is enhanced to Rs.40,000/- to each of the appellants/claimants. The compensation awarded by the Tribunal under the head funeral expenses at Rs.25,000/-



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is excessive and the same is reduced to Rs.15,000/-. The Tribunal has not awarded any compensation under the head loss of estate, hence, this Court is inclined to award a sum of Rs.15,000/- under the head loss of estate.

9. Accordingly, the modified compensation payable would be

M.C.O.P.No.254 of 2019 [C.M.A.No.3467 of 2024]

Sl.No.	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Loss of income	10,80,000/-	22,68,000/-
2.	Loss of love and affection (Rs.40,000/- * 5)	1,00,000/-	2,00,000/-
3.	Funeral Expenses	25,000/-	15,000/-
4.	Loss of Estate	-	15,000/-
	Total	12,05,000/-	24,98,000/-

10. The age of the deceased in C.M.A.No.3468 of 2024 was 21 years at the time of accident and the accident had taken place in the year 2018. However, the monthly income of the deceased along with the





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appellants/claimants. The compensation awarded by the Tribunal under the head funeral expenses at Rs.25,000/- is excessive and the same is reduced to Rs.15,000/-. The Tribunal has not awarded any compensation under the head loss of estate, hence, this Court is inclined to award a sum of Rs.15,000/- under the head loss of estate.

12. Accordingly, the modified compensation payable would be

M.C.O.P.No.253 of 2019 [C.M.A.No.3468 of 2024]

Sl.No.	Compensation awarded under the head	Amount awarded by the Tribunal (in Rs.)	Amount awarded by this Court (in Rs.)
1.	Loss of income	10,80,000/-	22,68,000/-
2.	Loss of love and affection (Rs.40,000/- * 3)	60,000/-	1,20,000/-
3.	Funeral Expenses	25,000/-	15,000/-
4.	Loss of Estate	-	15,000/-
	Total	11,65,000/-	24,18,000/-

13. In the result, these Civil Miscellaneous Appeals are partly allowed by enhancing the award amount from Rs.12,05,000/- to Rs.24,98,000/- in respect of C.M.A.No.3467 of 2024 and from



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Rs.11,65,000/- to Rs.24,18,000/- in respect of CMA No.3468 of 2024.

However, it is made clear that the appellants/claimants in both the appeals are not entitled for the interest for the default period. The second respondent is directed to deposit the compensation amount of Rs.24,98,000/- in respect of C.M.A.No.3467 of 2024 and Rs.24,18,000/- in respect of CMA No.3468 of 2024 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.Nos.253 and 254 of 2019 on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem. On such deposit, the appellant Nos.1 to 3 in C.M.A.No.3467 of 2024 appellant Nos.1 and 2 in C.M.A.No.3468 of 2024 are permitted to 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. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

14. Insofar as the appellants 4 and 5/brothers of the deceased in



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C.M.A.No.3467 of 2024, who are the minors, are concerned, since they are yet to attain majority, the Tribunal is directed to keep their share in deposit in an interest yielding fixed deposit with any one of the Nationalised Banks, initially for a period of three years to be renewed at periodic intervals until the minors attain majority and interest derived from out of the said share of the minors shall be paid to the second appellant/father every quarter to be utilised for the welfare of the said minors. Upon attaining majority and upon proper proof being filed substantiating attainment of majority, the Tribunal is directed to transfer the share of the appellant Nos.4 and 5 directly to the Bank account of the appellant Nos.4 and 5 through RTGS.

15. Insofar as the appellant No.3/sister of the deceased in C.M.A.No.3468 of 2024, who is the minor, is concerned, since she is yet to attain majority, the Tribunal is directed to keep her share in deposit in an interest yielding fixed deposit with any one of the Nationalised Banks, initially for a period of three years to be renewed at periodic intervals until the minor attains majority and interest derived from out of the said share of the minor shall be paid to the second appellant/father every



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quarter to be utilised for the welfare of the said minor. Upon attaining majority and upon proper proof being filed substantiating attainment of majority, the Tribunal is directed to transfer the share of the appellant No.3 directly to the Bank account of the appellant No.3 through RTGS. There shall be no order as to costs.

18.12.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Special District Judge, MCOP Tribunal, Salem.



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M.DHANDAPANI, J

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