



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1008 of 2024

1.Revathi

2.Minor D.Bibin Karthick

3.K.Samiappan

4.S.Saraswathi

..Appellants

.VS.

1.Archana

2.S.Premalatha

3.Cholamandalam MS General Insurance Company Ltd.,
Branch Office working at 443-Magmam Towers,
Dr.Nanjappa Road, Coimbatore
Coimbatore District.

4.S.Revathi

5.United India Insurance Company Ltd.,
Branch Office at No.5, Big Bazar Street,
Dharapuram Post, Dharapuram Taluk,
Tiruppur District

..Respondents



WEB COPY

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, seeking for enhancement of the compensation made in MCOP No.1130 of 2018 on the file of MACT/Sub Court Kangeyam, Tiruppur District, dated 11.01.2023.

For Appellants : Mr.Ma.P.Thangavel

For Respondents : Ms.R.Sreevidhya for R3

JUDGMENT

The claimants who are the wife, minor son and the parents of the deceased Dhandapani have filed this appeal against the award passed by the Tribunal in MCOP No.1130 of 2018, dated 11.01.2023 seeking for enhancement of compensation.

2.The case of the claimants is that on 30.05.2017, the deceased Dhandapani was riding his two wheeler from Coimbatore to Sathyamangalam main road and at about 9 p.m., when the two wheeler approached Samundipuram, the offending vehicle which was coming from south to north was driven in a rash and negligent manner and it hit the two



WEB COPY

wheeler and as a result, the deceased was thrown out of the two wheeler and he died on the spot after sustaining grievous injuries. An FIR came to be registered in Crime No.208 of 2017 as against the 1st respondent. It is under these circumstances, the claim petition came to be filed before the Tribunal 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 on the part of the 1st respondent. Having rendered such a finding, the Tribunal has fixed the compensation under various heads and the total compensation was fixed at Rs.15,40,000/- in the following manner:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income	13,50,000
2.	Loss of love and affection (Rs.40,000 x 4)	1,60,000
3.	Funeral Expenses	15,000
4.	Loss of Amenities	15,000
	Total	15,40,000



4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

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

6.Heard Mr.Ma.P.Thangavel, learned counsel appearing on behalf of the appellant and Ms.R.Sreevudhya, learned counsel appearing on behalf of the 3rd respondent.

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

8.The main ground that was urged by the learned counsel for the appellant was regarding the notional monthly income that was fixed by the Tribunal at Rs.10,000/- per month even without adding anything towards future prospects.



WEB COPY

9. In the considered view of this Court, the deceased was aged about 36 years and the accident had taken place in the year 2017 and it was claimed by PW1 that the deceased was an agriculturalist and was also running a small bakery shop and thereby, he was earning a sum of Rs.35,000/- per month. Considering the same, this Court is inclined to fix the notional monthly income at Rs.13,000/- and add 40% future prospects towards the same. Thus, the total monthly income works out to a sum of Rs.18,200/- If this notional income is taken into consideration, the compensation under the head of 'Loss of Income' comes to a sum of Rs.24,57,000/- (Rs.13,000 + 40% - $\frac{1}{4} \times 12 \times 15$).

10. 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 Income	24,57,000
2.	Loss of love and affection (Rs.40,000 x 4)	1,60,000
3.	Funeral Expenses	15,000



S.No	Compensation awarded under the head	Amount (in Rs.)
4.	Loss of Amenities	15,000
	Total	26,47,000

11.The above compensation is rounded off to Rs.26,50,000/- and the same shall be paid with interest at the rate of 7.5% p.a.

12.The compensation awarded by the tribunal at Rs.15,40,000/- is enhanced to Rs.26,50,000/-. The second respondent insurance company is directed to deposit the enhanced compensation, 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.

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

25.04.2024



Index : Yes/No

Speaking Order/Non-Speaking Order

Neutral citation : Yes/No

ssr

To

The MACT/Sub Court Kangeyam, Tiruppur District.



WEB COPY



N. ANAND VENKATESH., J

SSR

CMA No.1008 of 2024

25.04.2024