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Civil Miscellaneous Appeal No.1567 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1567 of 2024

1.Kasiammal
W/o.Tamizharasan

2.Tamizhselvan
S/o.Tamizharasan

3.Raja
S/o.Tamizharasan

4.Kaviyarasan
S/o.Tamizharasan

5.Karthik
S/o.Tamizharasan

... Appellants

Vs.

1.E.D.Daiz
S/o.Devassy

2.The Divisional Manager,
National Insurance Co. Ltd.,
DO.110, JN Street,
Puducherry - 605 001.

3.The Divisional Manager,
National Insurance Co. Ltd.,
165, Nethaji Road, Manjakuppam,
Cuddalore - 607 001.

[IA No.328/2020. 11.10.2020. amended)

... Respondents



Civil Miscellaneous Appeal No.1567 of 2024

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 18.05.2023 made in M.C.O.P.No.3060 of 2017 on the file of Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Cuddalore.

For Appellant : Ms.Ramya V. Rao

For Respondents : Ms.J.V.Sandhiya Priyadharshini
for Mr.C.Parandhaman [R2 & R3]

JUDGMENT

The appellants/claimants, who are the wife and children of the deceased Tamizharasan, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Cuddalore, in M.C.O.P.No.3060 of 2017, dated 18.05.2023, have filed this appeal.

2. The case of the claimants is that the deceased Tamizharasan was riding a two wheeler on 15.05.2017 at Thittakudi - Pennadam Main Road and at about 2.15 p.m., near the electricity board office, the offending vehicle, a Ashok Leyland lorry, which is owned by the first respondent, was driven in a rash and negligent manner and it dashed on the rear side of the vehicle as a result of which, the deceased was thrown away from



the vehicle and he sustained fatal injuries and unfortunately, he succumbed to the injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking 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 offending vehicle. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.12,59,672/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income	10,23,672/-
2.	Loss of consortium	2,00,000/-
3.	Loss of estate	18,000/-
4.	Funeral expenses	18,000/-
	Total	12,59,672/-

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 Ms.Ramya V. Rao, learned counsel for appellants/claimants and Ms.J.V.Sandhiya Priyadharshini, learned counsel for respondents 2 and 3.

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 bone of contention is with regard to the notional monthly income fixed by the Tribunal. The claimants came up with a case that the deceased was working in a petrol bunk and he was earning monthly salary of Rs.20,000/-. The deceased, in this case, was aged about 50 years and the accident had taken place in the year 2017. The Tribunal had fixed a sum of Rs.7,000/- as the notional monthly income, which is clearly on the lower side. Considering the year in which the accident had taken place and the number of claimants in this case, this Court is inclined to fix the notional monthly income at Rs.13,000/- p.m. Thus, the compensation under the head 'loss of income/dependency' is calculated as



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follows:

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Monthly Income	:	Rs. 13,000/-
Add: Future Prospects	:	Rs. 3,250/-
25% of Rs.13,000/-		-----
		Rs. 16,250/-
Annual Income	:	Rs. 1,95,000/-
(16,250 * 12)		
Less : Personal expenses		
Rs.1,95,000/- * 1/4	:	Rs. 48,750/-

		Rs. 1,46,250/-
Multiplier	:	x 13

Loss of income/dependency	:	Rs.19,01,250/-

9. The compensation granted under the other heads is justified and does not require the interference of this Court.

10. 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 income	10,23,672/-	19,01,250/-
2.	Loss of consortium	2,00,000/-	2,00,000/-
3.	Loss of estate	18,000/-	18,000/-
4.	Funeral expenses	18,000/-	18,000/-
	Total	12,59,672/-	21,37,250/-



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N.ANAND VENKATESH, J.

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11. The compensation awarded by the Tribunal at Rs.12,59,672/- is enhanced to Rs.21,37,250/-. The respondents 2 and 3 are directed to jointly 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.

09.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court,
Cuddalore.