



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.444 of 2023

1.Mrs.C.Thilagam

2.Minor.C.Thirumurugan

3.Minor.C.Vijay

4.A.Mani

5.Mrs.Annakili

..Appellants

.VS.

1.R.Sankar

2.Royal Sundaram Alliance Insurance Company Ltd., (Insurer)

Vishranthi Melaram Towers,
No.2/319, Karapakkam Village,
Rajiv Gandhi Salai,
(Old Mahabalipuram Road)
Chennai – 600 097

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and Decree made in MCOP No.569 of 2016, dated 30.08.2019, on the file of I Additional District Judge at Tindivanam.

For Appellant : Mr.R.Veeramani

For Respondent : Mr.G.Vasudevan for R2



JUDGMENT

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The claimants have filed the present appeal seeking for enhancement of compensation fixed by the Motor Accident Claim Tribunal, Tindivanam in MCOP No.569 of 2016 by an Award dated 30.08.2019.

2.The claimants are the wife, minor children and the parents of the deceased. The deceased who was aged about 32 years was riding a motor bike along with his friend. When the two wheeler approached Chennai-Trichy Road near Peranni Bus Stop, the driver of the car which was driven in a rash and negligent manner, hit the two wheeler and as a result, the deceased and his friend were thrown away from the two wheeler. Unfortunately, the deceased sustained multiple injuries and succumbed to the injuries on 25.09.2016. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for compensation of a sum of Rs.45,85,000/-

3.The Tribunal on considering the facts and circumstances of the case and on appreciation of the 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 car driver viz., the 1st respondent. After having rendered such a finding, the Tribunal proceeded to fix the compensation under various heads. The Tribunal fixed a total compensation of a sum of Rs.14,65,400/- under the following heads.



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Compensation awarded under the head	Amount (in Rs.)
Loss of Dependency	13,10,400
Loss of love and affection to 2 to 5 petitioners (Rs.25,000/- each)	1,00,000
Funeral Expenses	15,000
Loss of Consortium	40,000
Total Compensation	14,65,400

4.The Tribunal directed the above compensation to be paid with interest at the rate of 7.5% per annum. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal, have filed the present appeal before this Court.

5.Heard Mr.R.Veeramani, learned counsel appearing on behalf of the Appellants and Mr.G.Vasudevan, learned counsel appearing on behalf of the 2nd respondent.

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

7.The primary submissions were made touching upon the income that was fixed by the Tribunal while calculating the loss of dependency and also the compensation that was given under the head of loss and love and affection to each of



the claimants.

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8. In the instant case, the deceased claimed to be a electrician. The Tribunal has fixed the monthly income on notional basis at Rs.6,500/- per month. This notional income fixed by the Tribunal is definitely on the lower side. The accident had taken place in the year 2016. The minimum wages that were fixed during the relevant point of time works out to nearly Rs.430/- per day. Considering the cost of living and considering the avocation in which the deceased was engaged, this Court is inclined to fix the notional income at Rs.10,500/- If the future prospects at 40% is added to the monthly income, it comes to Rs.14,700/- (Rs.10,500 + Rs.4,200). After deducting 1/4th amount of Rs.3,675/- for his own expenses, the income is fixed at Rs.11,025/- The compensation under the head of loss of dependency can be calculated based on the above income fixed by this Court. The same works out to Rs.21,16,800/-. (Rs.11,025 x 12 x 16).

9. Insofar as the compensation that has been fixed for loss of love and affection, the same can be enhanced to Rs.40,000/- for the claimants 2 to 5 and total amount works out to Rs.1,60,000/-.

10. This Court is also inclined to grant compensation under the head of loss of estate to the tune of Rs.15,000/- Apart from that, this Court is also inclined to grant a



sum of Rs.10,000/- under the Transport charges.

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11. In the light of the above discussion, the compensation fixed by this Court is as follows:

Compensation awarded under the head	Amount (in Rs.)
Loss of Dependency	21,16,800
Loss of love and affection to 2 to 5 petitioners (Rs.40,000/- each)	1,60,000
Funeral Expenses	15,000
Loss of Consortium	40,000
Loss of Estate	15,000
Transport Charges	10,000
Total Compensation	23,56,800

12. The compensation awarded by the tribunal at Rs.14,65,400/- is enhanced to Rs.23,56,800/-. 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.



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