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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.1762 of 2024

1.Kaliyamoorthy

2.Minor Manikandan

3.Minor Santhiya

4.Minor Sowndharya

... Appellants

[Minors 2 to 4 are represented by their next friend / guardian / father
Tr.Kaliyamoorthy]

.VS.

1.Manikandan

2.The Divisional Manager

The United India Insurance Company Limited

situated at

No.46, Katpadi Road,

Vellore.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 22.02.2019 made in MACTOP No.154 of 2018 on the file of the Motor Accident Claims Tribunal, The Special Sub Court, Tiruvannamalai.



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For Appellants : Ms.A.Subadra

For Respondents : Ms.I.Malar for R2

JUDGMENT

The claimants who are the husband and three minor children not being satisfied with the quantum of compensation awarded by the Tribunal in MACTOP No.154 of 2018, dated 22.02.2019 have filed this appeal seeking for enhancement of compensation.

2.The case of the claimants is that the deceased Anjalai was travelling as a pillion rider along with her husband in a two wheeler on 06.08.2017 at Thiruvannamalai-Thirukoilur main road and at about 10.30 a.m., when the vehicle approached Kollakudi village, the offending vehicle which was also a two wheeler came in the opposite direction and it was driven in a rash and negligent manner and it dashed on the two wheeler. As a result, the deceased was thrown out of the vehicle and she sustained serious injuries and she succumbed to the injuries. An FIR came to be registered in Crime No.361 of 2017 against the rider of the offending vehicle. 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 rider of the offending vehicle. Having come to such a conclusion, the Tribunal fixed the total compensation payable at Rs.16,05,400/- under various heads as follow:

S.N o	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of Income	13,10,400
2.	Loss of Consortium to the 1 st petitioner	40,000
3.	Loss of Estate	15,000
4.	Funeral Expenses of Tmt.Anjali	15,000
5.	Loss of love and affection of the minor petitioners 2 to 4 at the rate of Rs.75,000/- each	2,25,000
	Total	16,05,400

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

5.The claimants 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 Ms.A.Subadra, learned counsel appearing on behalf of the appellants and Ms.I.Malar, 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 main ground that was urged by the learned counsel for the appellant is the notional monthly income that was fixed by the Tribunal. The accident had taken place in the year 2017 and the deceased was aged about 34 years at the time of the accident. Even though it was claimed by the claimants that the deceased was working as a building construction labourer and was earning a sum of Rs.20,000/- per month, there is no proof regarding the avocation or the monthly income of the deceased. The Tribunal had fixed the notional monthly income at Rs.6,500/-, which is clearly on the lower side. Assuming that the deceased was a home maker, this Court is inclined to fix a sum of Rs.13,000/- as notional monthly income. Considering the age of the deceased, 40% can be added towards future prospects. Thus, the compensation under the head of loss of dependency/income is calculated as follows:

$$\text{Rs.18,200} \times 12 \times 16 \times \frac{1}{4} = \text{Rs.26,20,800/-}$$



9.The Tribunal had fixed a sum of Rs.75,000/- each for claimants 2 to 4 under the head of loss of love and affection. A sum of Rs.40,000/- has been fixed for the 1st claimant under the head of loss of consortium. Considering the facts and circumstances of the case, this Court is inclined to fix a sum of Rs.44,000/- each for the claimants 2 to 4 under the head of loss of love and affection. The compensation that has been fixed under the other heads are reasonable and does not require the interference of this Court.

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	26,20,800
2.	Loss of Consortium	40,000
3.	Loss of Estate	15,000
4.	Funeral Expenses	15,000
5.	Loss of love and affection of the minor petitioners 2 to 4 at the rate of Rs.44,000/- each	1,32,000
	Total	28,22,800

11.The compensation awarded by the tribunal at Rs.16,05,400/- is enhanced to Rs.28,22,800/-. The second respondent insurance company is



directed to deposit the enhanced compensation of Rs.28,22,800/-, 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. Insofar as the enhanced compensation of Rs.12,17,400/- is concerned, the appellant/claimant will not be entitled for interest for the period of delay period of 377 days as was ordered by this Court in C.M.P.No.8474 of 2024, dated 25.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the claimants. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

12.In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

24.07.2024

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

To

The Motor Accident Claims Tribunal, The Special Sub Court, Tiruvannamalai.



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N. ANAND VENKATESH., J

SSR

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