



Civil Miscellaneous Appeal No.1665 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1665 of 2024

1. Renuha

2. Minor Nidharsan

3. Sundaram

... Appellant

Vs.

1. Venkatesh

2. V.G.S. And company
D.No.393, AVB Salai,
Anupparpalayam Road,
Tiruppur- 641 652

3. The United India Insurance Company Limited,
D No.139, C.G.Complex, 3rd Floor,
Tiruppur – 641 601

Having office at
D.No.178, Dr.Nanjappa Road,
Coimbatore – 641 018

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order and decree dated 08.02.2023 in



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M.C.O.P No.1686 of 2018, on the file of the Motor Accident Claims Tribunal (Special Subordinate Judge), Coimbatore.

For Appellant : Mr.K.Selvakumar

For Respondents : Mr.C.Paranthaman
for 3rd respondent

JUDGMENT

The claimants, who are the wife, minor son and the mother of the deceased Soundarapandian, not being satisfied with the quantum of compensation have filed this appeal challenging the award passed by the Motor Accident Claims Tribunal, Subordinate Judge Court, Omalur in M.C.O.P No.54 of 2019 dated 25.09.2023.

2. The case of the claimants is that the deceased Soundarapandian was travelling in a two wheeler as a pillion rider on 09.07.2018 at Soolur Road and at about 1.30 p.m, the rider of the two wheeler drove the vehicle in a rash and negligent manner and he applied sudden brake and lost control. As a result of which, the deceased fell down from the two wheeler and he sustained injuries. He ultimately died



on 15.11.2018. It is under these circumstances, the claim petition came to be filed before this Court 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 two wheeler.

4. Having rendered such a finding, the Tribunal came to the conclusion that the deceased was not wearing a head gear and he ultimately, died only due to the head injury and therefore, attributed 15% contributory negligence against the deceased.

5. The Tribunal thereafter proceeded to fix the total compensation at Rs.31,20,381/- under various heads as follows :-

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	Rs.16,79,940/-
2.	Loss of consortium and loss of	Rs.1,32,000/-



<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
	love and affection	
3.	Loss of amenities	Rs.16,500/-
4.	Medical bills	Rs.12,75,441/-
	Total	Rs.31,20,381/-

Out of the above compensation, Rs.26,52,324/- was directed to be paid by the Insurance company with interest at the rate of 7.5% per annum.

6. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed this appeal seeking for enhancement of compensation.

7. Heard Mr.K.Selvakumar, learned counsel for appellant/ claimant and Mr.C.Paranthaman, learned counsel for 3rd respondent / Insurance company.

8. This Court has carefully considered the submissions made



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on either side and the materials available on record.

9. This Court also carefully went through the award passed by the Tribunal.

10. The first ground of challenge is with regard to the notional monthly income that was fixed by the Tribunal at Rs.10,000/-. The claimants came up with a case that the deceased was a driver and was earning a sum of Rs.15,000/- per month. There was no proof regarding the occupation of the deceased and the monthly income earned by him. However, considering the fact that the accident had taken place in the year 2018 and there were three claimants who were dependants, this Court is inclined to fix the monthly notional income at Rs.15,000/-. 40% can be added towards future prospects. Thus, the compensation under the head of loss of income / dependency is calculated as follows:-

Monthly Income	:	Rs. 15,000/-
Add: Future Prospects 40% of Rs.15,000/-	:	Rs. 6,000/- ----- Rs. 21,000/-



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Annual Income (21,000 * 12)	:	Rs. 2,52,000/-
Less : Personal expenses Rs.2,52,000/- * 1/3	:	Rs. 84,000/- -----
		Rs. 1,68,000/-
Multiplier	:	x 15 -----
Loss of income/dependency	:	Rs.25,20,000/- -----

11. The compensation that has been granted under the other heads are reasonable and it does not require the interference of this Court.

12. The Tribunal has fixed the contributory negligence at 15% against the deceased. Considering the facts and circumstances of the case, the contributory negligence is reduced to 10%. Thus, 90% liability is fastened against the insurance company.

13. In the light of the above discussion, this Court modifies the compensation in the following manner:-



Sl. No.	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	Rs.25,20,000/-
2.	Loss of consortium and loss of love and affection	Rs.1,32,000/-
3.	Loss of amenities	Rs.16,500/-
4.	Medical bills	Rs.12,75,441/-
	Total	Rs.39,43,941/-
	Less 10% contributory negligence	Rs.39,43,94/-
	Total	Rs.35,49,547/-

14. The compensation awarded by the Tribunal at Rs.26,52,324/- is enhanced to Rs.35,49,547/-. The 3rd 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. Insofar as the enhanced compensation of Rs.8,97,223/- (rounded off to Rs.8,97,200/-) is concerned, the appellants/claimants will not be entitled for interest for the period of delay period of 118 days as was ordered by this Court in C.M.P.No.8366 of 2024, dated 13.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid



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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 allowed in the above terms. No costs.

15.07.2024

Speaking Judgment/Non-speaking Judgment
Index : Yes/No
Neutral citation: Yes/No
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N.ANAND VENKATESH.,J

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To,
Motor Accident Claims Tribunal (Special Subordinate Judge),
Coimbatore.

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