



C.M.A.No.326 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.326 of 2024

1.Jeyalakshmi
2.Natarajan

...Appellant

Vs

1.Vigneswaran
2.M/s.Reliance General Insurance Co. Ltd.,
Having Office at Shri Lakshmi; Complex,
1st Floor, Omalur Main Road,
Swarnapuri, Salem.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal and to enhance the amount awarded in judgment and decree dated 07.02.2023 made in MCOP.No.1265 of 2021 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem.

For Appellant : Mr.S.P.Yuvaraj

For Respondent : Mr.P.Suresh Srinivasan for R2



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JUDGMENT

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This civil miscellaneous appeal has been filed to set aside the judgement and decree dated 07.02.2023 made in MCOP.No.1265 of 2021.

2. Mr.P.Suresh Srinivasan, learned counsel takes notice on behalf of the 2nd respondent. By consent of the parties, the present appeal is taken up for disposal at the admission stage itself.

3. The learned counsel for the appellant would submit that on 18.07.2021, when one Prabu was riding a two-wheeler bearing Registration No.TN-41-T-7929 along with one Karthi/pillion rider, at Vellakoil to Muthur Road near Mettupalayam, the car bearing Registration No.TN-54-U-7284 came in a rash and negligent manner and dashed against the two-wheeler. Due to which, the said Prabu had sustained grievous injuries and died at Erode Government Hospital. Considering all the aspects the Tribunal had awarded the following compensation:



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<i>S.No</i>	<i>Particulars</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	8,16,000
2	Loss of Love and Affection	40,000
3	Funeral Expenses	25,000
	Total	8,86,000

4. Further, he would submit that at the time of accident, the deceased, who was aged about 26 years, was a Centering Worker and earning a sum of Rs.21,000/- per month. However, since there is no proof of income, the Tribunal had fixed the notional income of the deceased as a sum of Rs.6,500/-, which is on lower side. Hence, he would request this Court to enhance the compensation by fixing the notional income of the deceased as a sum of Rs.12,000/-. He also requests this Court to award compensation towards the other heads, viz, Loss of Love and Affection and Funeral Expenses, as per the law laid down by the Hon'ble Apex Court.

5. In reply, the learned counsel appearing for the respondent would fairly submit that considering the facts and circumstances of the case, any reasonable amount may be fixed as notional income of the deceased.



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6. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.

7. In the present case, at the time of accident, the deceased was aged about 26 years and was working as a Centering Worker. However, there is no proof for the income of the deceased. In such case, the Tribunal had fixed a sum of Rs.6,500/- as notional income, which appears to be low. Hence, considering the year of accident, this Court is inclined to fix a sum of Rs.15,000/- as notional income of the deceased. Accordingly, by adding 40% future prospects, by applying 17 as multiplier and also by deducting 50% towards personal expenses of the deceased, the loss of income would be calculated as follows:

$$\text{Rs.15,000/- (notional income) + Rs.6,000/- (40\% future prospects) * 17 (multiplier) * 12 (months) * } \frac{1}{2} \text{ (personal expenses) = Rs.21,42,000/-}$$

8. As far as the loss of consortium is concerned, the Tribunal had awarded a sum of Rs.40,000/- i.e., Rs.20,000/- each, which appears to be low. Hence, as per the law laid down by the Hon'ble Apex Court, this Court is inclined to award a sum of Rs.80,000/- i.e., Rs.40,000/- each towards the loss of consortium.



9. Further, it appears that the Tribunal had awarded a sum of Rs.25,000/- towards Funeral Expenses, which is on higher side. Hence, the same stands reduced to a sum of Rs.16,500/-. That apart, since no amount was awarded by the Tribunal towards the loss of estate and transportation, this Court is inclined to award a sum of Rs.16,500/- towards loss of estate and a sum of Rs.10,000/- towards Transportation.

10. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No</i>	<i>Particulars</i>	<i>Compensation awarded by the Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Income	8,16,000	21,42,000
2	Loss of Love and Affection	40,000	80,000
3	Funeral Expenses	25,000	16,500
4	Transportation	Nil	10,000
5	Loss of Estate	Nil	16,500
	Total	8,86,000	22,65,000

11. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.22,65,000/-. Accordingly, the award amount stands enhanced from a sum



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of Rs.8,86,000/- to Rs.22,65,000/-. In all other aspects, the award of the Tribunal stands confirmed.

12. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent is directed to deposit a sum of Rs.22,65,000/- along with interest and costs, less the amount already deposited, if any, within a period of 6 weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.1265 of 2021 on the file of the Motor Accident Claims Tribunal, Special District Court, Salem. Further, the claimants shall pay necessary Court fee, if any, on the enhanced compensation. Thereafter, the Tribunal is directed to immediately transfer the entire amount to the respective bank accounts of the claimants by way of RTGS, within a period of 3 weeks from the date of deposit and from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

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