



C.M.A.No.1 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2024

C O R A M

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

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- 1.Gomathi
- 2.Minor Rithika,
Rep by mother/1st appellant.
- 3.Perumayee

...Appellant

Vs

- 1.Sathiyamoorthy
- 2.M/s.Reliance General Insurance Co Ltd.,
Having Office at Shri Lakshmi Complex,
1st Floor, Omalur Main Road,
Swarnapuri, Salem 636 004.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount made in judgement and decree dated 13.02.2023 made in MCOP.No.1321 of 2021 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem.



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For Appellant : Mr.S.P.Yuvaraj

For Respondents : Ms.G.Sukumari for R2

JUDGMENT

This civil miscellaneous appeal has been filed challenging the quantum of compensation awarded by the Tribunal.

2. The learned counsel for the claimant would submit that on 05.09.2021, while one Yuvaraj was riding a two-wheeler bearing Registration No.TN 34 V 0069 near Ashok Nagar Beach Road, another two-wheeler bearing Registration No.TN 52 M 3027 came in a rash and negligent manner and dashed against the said Yuvaraj. Due to the said accident, he died on the spot. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	10,24,000
2	Loss of Love and Affection	60,000
3	Loss of Consortium	40,000
4	Funeral Expenses	25,000
		11,49,000



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3. The learned counsel for the appellant would submit that the Tribunal had fixed the notional income of the deceased as a sum of Rs.8,000/-, which is on lower side. Further, he requested this Court to enhance the compensation awarded under the head loss of income by considering the notional income as a sum of Rs.14,000/-. Hence, he requests this Court to re-consider the said aspect.

4. In reply, the learned counsel appearing for the 2nd respondent would request this Court to pass appropriate orders after considering the facts and circumstances of the present case.

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

6. In the present case, it appears that at the time of accident, the deceased, who was aged about 33 years, was working as a dying master. Hence, considering the year of accident, age and nature of employment of the deceased, this Court is inclined to fix a sum of Rs.15,000/- as notional income of the deceased. Thus, the future prospects of 40% has to be added to the notional



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income of the deceased i.e., Rs.15,000/-, and the same has to be calculated as follows:

$$\text{Rs.15,000/- (notional income)} + \text{Rs.6,000/- (40\% of the income)} = \text{Rs.21,000/-}$$

8. Accordingly, the loss of income shall be calculated in the following manner:

$$\begin{aligned} &\text{Rs.21,000/- (income)} * 12 \text{ (months)} * 16 \text{ (multiplier)} \\ &\quad * 2/3 \text{ (loss of dependency)} = \text{Rs.26,88,000/-} \end{aligned}$$

10. Further, since the compensation awarded by the Tribunal under the head loss of love and affection for the wife, mother and daughter of the deceased for a sum of Rs.60,000/- is on lower side, this Court is inclined to award a sum of Rs.80,000/- for mother and daughter of the deceased, whereas, the compensation for wife, which was awarded under the head loss of consortium, stands confirmed.

11. The Tribunal had also awarded a sum of Rs.25,000/- towards the funeral expenses, which is on higher side. Hence, the said amount is reduced to a sum of Rs.15,000/-. Further, since no amount was awarded under the head “Loss of Estate” and “Transportation” by the Tribunal, this Court is inclined to



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award a sum of Rs.15,000/- towards the “Loss of Estate” and a sum of Rs.10,000/- towards “Transportation”.

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

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Funeral Expenses	25,000	15,000
2	Loss of Estate	Nil	15,000
3	Transportation	Nil	10,000
4	Loss of Love and Affection	60,000 (for wife, daughter and mother of the deceased)	80,000 (only for daughter and mother of the deceased)
5	Loss of Consortium	40,000	40,000
6	Loss of Income	10,24,000	26,88,000
	Total Compensation is fixed at	11,49,000	28,48,000

13. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.28,48,000/-. Accordingly, the award amount stands increased from a sum of Rs.11,49,000/- to Rs.28,48,000/-. In all other aspects, the award of the Tribunal stands confirmed. It is also made clear that the compensation will be awarded to the claimants in the following proportions:



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- i) Wife of the deceased – Rs.15,00,000/-
- ii) Daughter of the deceased – Rs.10,00,000/-
- iii) Mother of the deceased – Rs.3,48,000/-

14. In the result, this Civil Miscellaneous Appeal is partly allowed and the 2nd respondent/insurance company is directed to deposit a sum of Rs.28,48,000/- along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.1321 of 2021 on the file of the Special District Court, Motor Accident Claims Tribunal, Salem. Upon such deposit, the share of the minor 2nd appellant i.e a sum of Rs.10,00,000/- is directed to be deposited in any one of the Nationalised Bank till she attains majority and the 1st appellant being the mother of the minor is permitted to withdraw the accrued interest once in three months for the welfare of the minor. Further, the Tribunal is directed to transfer the share of the 1st and 3rd appellants to their respective bank accounts, as per the proportion determined by this Court, by way of RTGS, within a period of three weeks from the deposit or 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
nsa

To:

The Motor Accident Claims Tribunal,
Special District Court, Salem.



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KRISHNAN RAMASAMY,J.

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