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Civil Miscellaneous Appeal Nos.1481, 1482, 1483 & 1484 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal Nos.1481, 1482, 1483 & 1484 of 2024

Jareena Begum

W/o.Sandhu Mohammed ... Appellant in C.M.A.No.1481/2024

1.S.A.Hakeem

S/o.Sahul Hameed

2.A.Fauziya Banu

W/o.S.A.Hakeem ... Appellants in C.M.A.No.1482/2024

1.Shaboor Begum

W/o.Late Mohameed Ibrahim

2.Zakir Hussain

S/o.Late Mohameed Ibrahim

3.Fauziya Babu

S/o.Late Mohameed Ibrahim ... Appellants in C.M.A.No.1483/2024

Minor A.Ashwaq Ahmed

D/o.S.A.Hakeem

represented by his natural

guardian S.A.Hakkeem

... Appellant in C.M.A.No.1484/2024

Vs.



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1.P.Dhatchayani
W/o.Padmanaban

2.The Divisional Manager,
Bajaj Allianz General Insurance
Company Limited,
Vellore, Office at GDS Complex,
No.1, New Katpadi Raod,
Vellore Taluk. ... Respondents 1 and 2 in all appeals

3.Syed Mohammed
S/o.Late Moosa Rowuther

Rameja Bee (died) ... R3 in C.M.A.No.1483/2024

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.06.2022 made in M.C.O.P.Nos.301 & 138 of 2013, 28 of 2014 and 317 of 2013 on the file of Motor Accident Claims Tribunal, I Additional District & Sessions Court, Vellore.

For Appellants : Mr.R.Nalliyappan
[in all appeals]
For Respondents : Mr.J.Michael Visuvasam [R2]
[in all appeals]

COMMON JUDGMENT

These appeals arise out of a common award passed by Motor Accident Claims Tribunal, I Additional District & Sessions Court, Vellore, passed in M.C.O.P.Nos.301 & 138 of 2013, 28 of 2014 and 317 of 2013, dated 22.06.2022 and hence, a common judgment is passed in all these appeals.



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2. The claimants in C.M.A.Nos.1481 & 1484 of 2024 are the injured. The claimants in C.M.A.No.1482 of 2014 are the parents of the deceased Nauful Akkram and the claimants in C.M.A.No.1483 of 2014 are the wife, son, daughter and father of the deceased Mohamed Ibrahim. Not being satisfied with the quantum of compensation, all these appeals have been filed.

3. The case of the claimants is that on 29.04.2012, 13 persons were travelling in a car and were proceeding towards Dindigul. At about 05.00 a.m., when the car was proceeding near a bridge, the driver of the car drove the car in a rash and negligent manner and as a result, he lost control and the car dashed on a cement concrete slab in the median of the road and some of them died and others sustained serious injuries.

4. Insofar as the claimant in M.C.O.P.No.301 of 2013 [C.M.A.No.1481 of 2024] is concerned, she sustained fracture on the right foot and left leg. Likewise, the claimant in M.C.O.P.No.317 of 2013 [C.M.A.No.1484 of 2024] sustained fracture on the left femur. In both cases, the Medical Board assessed the disability at 10%.



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M.C.O.P.Nos.138 of 2013 and 28 of 2014 arose out of the demise of Nauful Akkram and Mohamed Ibrahim and their legal representatives/dependents have filed the claim petitions.

5. 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 driver of the car. Having rendered such a finding, the Tribunal proceeded to fix the compensation under various heads as follows:

C.M.A.No.1481 of 2024 [M.C.O.P.No.301 of 2013]

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Permanent disability	1,51,200/-
2.	Medical expenses	20,167/-
3.	Pain and suffering	25,000/-
4.	Transport expenses	5,000/-
5.	Attender charges	5,000/-
6.	Loss of amenities	5,000/-
7.	Extra nourishment	5,000/-
	Total	2,16,367/-



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C.M.A.No.1482 of 2024 [M.C.O.P.No.138 of 2013]

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income	7,56,000/-
2.	Parental consortium	88,000/-
3.	Funeral expenses	16,500/-
4.	Loss of estate	16,500/-
5.	Transport expenses	5,000/-
	Total	8,82,000/-

C.M.A.No.1483 of 2024 [M.C.O.P.No.28 of 2014]

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income	14,17,500/-
2.	Filial consortium	88,000/-
3.	Spouse consortium	44,000/-
4.	Parental consortium	44,000/-
5.	Funeral expenses	16,500/-
6.	Loss of estate	16,500/-
7.	Transport expenses	5,000/-
	Total	16,31,500/-

C.M.A.No.1484 of 2024 [M.C.O.P.No.317 of 2013]

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Permanent disability	90,000/-
2.	Medical expenses	49,005/-



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<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
3.	Pain and suffering	25,000/-
4.	Transport expenses	5,000/-
5.	Attender charges	5,000/-
6.	Loss of amenities	5,000/-
7.	Extra nourishment	5,000/-
	Total	1,84,005/-

The above compensation was directed to be paid along with interest at 7.5% p.a.

6. The claimants, not being satisfied with quantum of compensation, have filed the present appeals.

7. Heard Mr.R.Nalliyappan, learned counsel for appellants and Mr.J.Michael Visuvasam, learned counsel for second respondent insurance company.

8. This Court carefully considered the submissions made on either side and the materials available on record.



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9. Insofar as the appeals in C.M.A.Nos.1481, 1482 and 1484 of 2024 are concerned, this Court finds that sufficient compensation has been granted by the Tribunal under various heads. In fact, the Tribunal has gone to the extent of adopting multiplier method in both the injured cases. In view of the same, this Court does not find any ground to enhance the compensation in these three appeals.

10. Insofar as C.M.A.No.1483 of 2024 is concerned, the deceased in this case, was aged about 45 years and the claimants came up with a case that the deceased was doing business and was earning a sum of Rs.25,000/- p.m. There was no evidence with regard to the avocation of the deceased or the monthly income earned by him. The Tribunal fixed the notional monthly income at Rs.9,000/- p.m. Considering the fact that the accident took place in the year 2012 and there are nearly four claimants in this case and also considering the ground taken by the claimants regarding the avocation of the deceased, this Court is inclined to fix a sum of Rs.10,000/- as the notional monthly income and 25% can be added towards future prospects. Thus, the compensation under the



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head 'loss of income/dependency' is calculated as follows:

Monthly Income	:	Rs. 10,000/-
Add: Future Prospects	:	Rs. 2,500/-
25% of Rs.10,000/-		-----
		Rs. 12,500/-
Annual Income	:	Rs. 1,50,000/-
(12,500 * 12)		
Less : Personal expenses		
Rs.1,50,000/- * 1/4	:	Rs. 37,500/-

		Rs. 1,12,500/-
Multiplier	:	x 14

Loss of income/dependency	:	Rs.15,75,000/-

11. The compensation granted under the other heads is reasonable and it does not require the interference of this Court.

12. For the foregoing reasons, the compensation awarded by the Tribunal is modified as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
1.	Loss of income	14,17,500/-	15,75,000/-
2.	Filial consortium	88,000/-	88,000/-



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<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount awarded by the Tribunal (in Rs.)</i>	<i>Amount awarded by this Court (in Rs.)</i>
3.	Spouse consortium	44,000/-	44,000/-
4.	Parental consortium	44,000/-	44,000/-
5.	Funeral expenses	16,500/-	16,500/-
6.	Loss of estate	16,500/-	16,500/-
7.	Transport expenses	5,000/-	5,000/-
	Total	16,31,500/-	17,89,000/-

13. The compensation awarded by the Tribunal in M.C.O.P.No.28 of 2014 at Rs.16,31,500/- is enhanced to Rs.17,89,000/-. The second respondent insurance company is directed to deposit the compensation awarded by this Court, 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 six (6) weeks from the date of receipt of this judgment. Insofar as the enhanced compensation of Rs.1,57,500/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 298 days as was ordered by this Court in C.M.P.No.22895 of 2023 in C.M.A.Sr.No.124479 of 2023 dated 04.06.2024. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants. The other directions issued by the



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Tribunal with regard to the mode of payment of compensation remains unaltered.

14. The second respondent insurance company is directed to deposit the compensation awarded by the Tribunal in M.C.O.P.No.301 of 2013 [C.M.A.No.1481 of 2024], M.C.O.P.No.138 of 2013 [C.M.A.No.1482 of 2024] and M.C.O.P.No.317 of 2013 [C.M.A.No.1484 of 2024], 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 six (6) 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.

15. It is made clear that the Tribunal had invoked the principle of pay and recover in the claim petitions and hence, it is left open to the second respondent insurance company to pay the compensation and recover the same from the first respondent.

In the result, C.M.A.Nos.1481, 1482 & 1484 of 2024 are dismissed



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and C.M.A.No.1483 of 2024 is partly allowed. No costs.

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Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,
I Additional District & Sessions Court,
Vellore.

N.ANAND VENKATESH, J.



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