



C.M.A.No.2911 of 2024

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WEB C **M.DHANDAPANI, J.**

Today, this matter is listed under the caption “For Being Mentioned” at the instance of the Registry.

2. It is brought to the notice of this Court by the Registry that, the interest for the default period which has not been granted, vide order of this Court dated 21.10.2024 has not been incorporated in the operative portion of the order dated 04.11.2024 in and by which the Civil Miscellaneous Appeal was allowed with a direction to the insurance company to deposit the modified award amount with appropriate interest before the tribunal and therefore, seeks appropriate directions.

3. When the matter was taken up for hearing, it was further brought to the notice of this Court that, the driver of the 1st respondent vehicle did not possess necessary batch to drive the vehicle and drove the vehicle without any valid driving license, which is a clear violation of the policy conditions and thereby, the tribunal ordered for pay and recovery as against the 1st respondent. However, the same was not incorporated in the above said order dated 04.11.2024.



4. This Court perused the order dated 04.11.2024, particularly, para 10 of the said order dated 04.11.2024 and also the above submissions, and this Court is satisfied that, the interest for the default period which has already been negatived and also the aspect of pay and recovery has to be mentioned in the respective portion of the order.

5. In view of the above, Paragraph 10 of the order dated 04.11.2024 is recalled and shall stand replaced with the following paragraph:

“ 10. Accordingly, this Civil Miscellaneous Appeal stands allowed and this Court, while confirming the pay and recovery ordered by the tribunal, modifies the impugned award passed by the Tribunal in MCOP.No.2199 of 2019 by enhancing the compensation amount from Rs.10,52,000/- to Rs.15,39,500/-. The 2nd respondent-Insurance company is directed to deposit the said amount to the credit of MCOP.No.2199 of 2019 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment and thereafter the 2nd respondent is at liberty to recover the same from the 1st respondent in the manner known to law. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellant/claimant through RTGS within a period of two weeks thereafter, upon production of proof with regard to payment of Court fee on the enhanced compensation. It is underscored that the appellant is not entitled to any interest for the default period, if any. No



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6. All the other observations made in the earlier order dated 04.11.2024 shall remain intact.

7. Registry is directed to carry out the necessary correction as aforesaid in the order dated 04.11.2024 and issue fresh copy of the order to the learned counsel for the parties.

18.02.2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

C.M.A.No.2911 of 2024

R.Muralidaran

... Appellant

-VS-

1.S.Parameswari

2.The Manager
United India Insurance Co. Ltd.,
Sillingi Building, 4th Floor,
No.134, Greams Road,
Chennai-6

... Respondents

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 11.12.2023 in M.C.O.P.No.2199 of 2019 on the file of the Motor Accident Claims Tribunal, (In the II Court of Small Causes, Chennai).

For Appellant : Mr.K.Balaji
For Respondent
(For R2) : Mr.K.Swaminathan

J U D G M E N T

This appeal has been filed by the appellant/claimant against the Judgment and Decree dated 11.12.2023 in M.C.O.P.No.2199 of 2019 on the file of the Motor Accident Claims Tribunal, (In the II Court of Small Causes, Chennai).



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2. It is the case of the appellant that on 09.04.2018 at about 16.00 hours while one Geetha, who is the appellant wife, was riding the motor cycle bearing Reg. no.TN 06 T 2178 near Light House, Chennai, at that time the van bearing Reg. No.TN 51 AD 9375 driven by its driver in a rash and negligent manner came from behind and hit the two wheeler and the van rear side left wheel ran over the said Geetha, due to which, she died on the spot. Thereafter, the appellant had filed a claim petition before Tribunal claiming compensation of Rs.25,00,000/-. After adjudication, the Tribunal has awarded a sum of Rs.10,52,0000/- to the claimant for the death of his wife.

3. The appellant/claimant has filed the present appeal seeking enhancement of compensation.

4. The learned counsel for the appellant submitted that the Tribunal has fixed the notional income at Rs.10,000/- which is very meager. This Court may interfere with the impugned award and modify the same.

5. Per contra, the learned counsel appearing for the second respondent- Insurance Company contended that due to rash and negligent driving of the



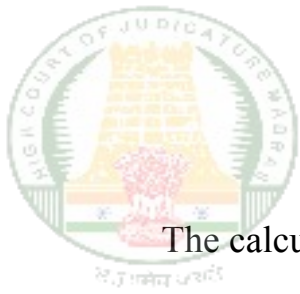
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driver, the accident had happened. The compensation awarded by the Tribunal in favour of the appellant is just and reasonable. Hence, this Court may dismiss the petition.

6. Heard the learned counsel for either side and perused the materials available on record.

7. The fact in the present case is not in dispute and the manner of the accident is also not in dispute. For enhancement of compensation, the present appeal has been filed.

8. According to the appellant, the driver of the van, driven in rash and negligent manner and dashed against the deceased Geetha and therefore, she died on the spot. It is the main ground of the appellant that the Tribunal has awarded very meager amount in respect of loss of income. In order to prove the income, he has produced the Bank Pass Book before the Tribunal, Even then the Tribunal has fixed a sum of Rs.10,000/- per month which is very meager. Admittedly, the accident has happened in the year 2018. As per the decision of *Pranay Sethi*, the notional income is fixed at Rs.15,000/- Hence, this Court is inclined to interfere with the same and fixed a sum of Rs.15,000/- per month.



The calculation in respect of loss of dependency is as follows:

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$$\begin{aligned} &= 15,000 \times 25\% \text{ (future prospectus)} = 3750 + 15000 \\ &= 18750 \times \frac{1}{2} = 9375 \times 13 \times 12 = \mathbf{14,62,500/-} \end{aligned}$$

9. The other heads awarded in favour of the appellant by the Tribunal is just and reasonable and therefore, this court is not inclined to interfere with in respect of other heads. Accordingly, the order passed by the Tribunal stands modified as follows:

Heads	Amount awarded by the Tribunal (Rs.)	Modified Award Amount (Rs.)
Loss of dependency	9,75,000	14,62,500
Loss of Consortium	44,000	44,000
Loss of Estate	16,500	16,500
Funeral Exp.	16,500	16,500
Total	10,52,000/-	15,39,500/-

10. In the result, the Civil Miscellaneous Appeal is allowed with following directions:

(i) The Insurance Company is directed to deposit modified award amount of Rs.15,39,500/- with 7.5% interest, from the date of claim petition till date of deposit in the credit of claim petition before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. and

(iii) on such deposit, the Tribunal shall deposit the



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same to the bank account of the appellant within a period of two weeks thereafter. No costs.

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04.11.2024

Rli

Index: Yes/No

NCS : Yes/No

To

The Judge,
Motor Accident Claims Tribunal,
(In the II Court of Small Causes,
Chennai).



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