



Civil Miscellaneous Appeal No.1562 of 2024

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 10.07.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**Civil Miscellaneous Appeal No.1562 of 2024**

1.Chitra

W/o.Chinnusamy

2.Ramya

D/o.Chinnusamy

3.Minor Loganathan

S/o.Chinnusamy

(minor represented by his mother/  
guardian Chitra)

4.Sundarammal

W/o.Sadaiyappan

Sadaiyappan (died)

... Appellants

Vs.

1.Thangaraj

S/o.Veeramalai

2.V.T.Kesavan

S/o.V.N.Thiyagarajan

3.The New India Assurance Company Limited,  
Post Box No.47, Kumaran Shopping Complex,  
Kumaran Road, Tiruppur.

... Respondents

[Respondents 1 and 2 remained *ex parte* before the Tribunal. Hence,  
notice may be dispensed with for respondents 1 and 2 in this appeal]



Civil Miscellaneous Appeal No.1562 of 2024

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 13.09.2021 made in M.C.O.P.No.159 of 2019 on the file of Motor Accident Claims Tribunal, IV Additional District & Sessions Judge, Bhavani, Erode District.

For Appellant : Mr.C.Ramaraj

For Respondents : Mr.S.R.Sundar [R3]

\*\*\*\*\*

### **JUDGMENT**

The appellants/claimants, who are the wife, daughter, son and mother of the deceased, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, IV Additional District & Sessions Judge, Bhavani, Erode District, in M.C.O.P.No.159 of 2019, dated 13.09.2021, have filed this appeal.

2. The deceased Chinnusamy was riding a two wheeler on 10.02.2019 along with his wife (first claimant), who was the pillion rider at Coimbatore to Salem National Highway. At about 07.30 a.m., when the two wheeler came near the Salem bypass road, it was stopped near a median junction and at that point of time, the offending vehicle, a TATA van, was driven in a rash and negligent manner and it dashed on the two



WEB COPY

wheeler as a result of which the rider and the pillion rider were thrown out of the vehicle. The deceased sustained grievous injuries and he succumbed to the injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.

3. The pillion rider, who was the injured in this case, also filed an independent claim petition in M.C.O.P.No.137 of 2019 and both the claim petitions were tried together by the Tribunal.

4. 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 offending vehicle. Having reached such a finding, the Tribunal proceeded to fix the total compensation at Rs.17,41,084/- under various heads as follows:

| <b><i>Sl. No.</i></b> | <b><i>Compensation awarded under the head</i></b> | <b><i>Amount (in Rs.)</i></b> |
|-----------------------|---------------------------------------------------|-------------------------------|
| 1.                    | Loss of dependency                                | 15,43,584/-                   |
| 2.                    | Loss of spousial consortium to first petitioner   | 40,000/-                      |
| 3.                    | Filial consortium to fourth petitioner            | 40,000/-                      |



Civil Miscellaneous Appeal No.1562 of 2024

| <b>Sl. No.</b> | <b>Compensation awarded under the head</b> | <b>Amount (in Rs.)</b> |
|----------------|--------------------------------------------|------------------------|
| 4.             | Parental consortium to petitioners 2 and 3 | 80,000/-               |
| 5.             | Loss of estate                             | 15,000/-               |
| 6.             | Funeral expenses                           | 15,000/-               |
| 7.             | Transportation                             | 7,500/-                |
|                | <b>Total</b>                               | <b>17,41,084/-</b>     |

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

5. The claimant, not being satisfied with the quantum of compensation awarded by the Tribunal, has filed this appeal seeking compensation.

6. Heard Mr.C.Ramaraj, learned counsel for appellants/claimants and Mr.S.R.Sundar, learned counsel for third respondent.

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

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



WEB COPY

9. The main ground urged by learned counsel for appellants is with regard to the notional monthly income fixed by the Tribunal at Rs.10,000/-. The claimants came up with a case that the deceased, who was aged about 45 years, was working as an operator at Sri Ragavendra Pipes Company. To substantiate the same, PW-2 was examined and Ex.P18 - Salary certificate issued by Sri Ragavendra Pipes and Ex.P25 - Certificate of Registration of Sri Ragavendra Pipes were also marked. The evidence of PW-2 and also the salary certificate marked as Ex.P18 shows that the deceased was earning a sum of Rs.500/- as daily wages. However, there was no material to show that this amount was actually paid to the deceased and no registers maintained by the company with reference to payment of daily wages were produced before the Tribunal. In view of the same, the Tribunal fixed the notional monthly income of the deceased at Rs.10,000/-.

10. Considering the fact that the accident had taken place in the year 2019 and also considering the evidence of PW-2 considered along



Civil Miscellaneous Appeal No.1562 of 2024

with Ex.P18 and Ex.P25, this Court is inclined to fix the notional monthly income at Rs.15,000/- p.m. The claimant was aged about 45 years at the time of accident and therefore, 25% can be added towards future prospects. Thus, the compensation under the head 'loss of income/dependency' is calculated as follows:

|                                                 |          |                                         |
|-------------------------------------------------|----------|-----------------------------------------|
| Monthly Income                                  | :        | Rs. 15,000/-                            |
| Add: Future Prospects<br>25% of Rs.15,000/-     | :        | Rs. 3,750/-<br>-----<br>Rs. 18,750/-    |
| Annual Income<br>(18,750 * 12)                  | :        | Rs. 2,25,000/-                          |
| Less : Personal expenses<br>Rs.2,25,000/- * 1/4 | :        | Rs. 56,250/-<br>-----<br>Rs. 1,68,750/- |
| Multiplier                                      | :        | x 14                                    |
| <b>Loss of income/dependency</b>                | <b>:</b> | <b>Rs.23,62,500/-</b><br>-----          |

11. The compensation granted under the other heads is justified and 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 dependency                              | 15,43,584/-                                    | 23,62,500/-                                  |
| 2.             | Loss of spousial consortium to first petitioner | 40,000/-                                       | 40,000/-                                     |
| 3.             | Filial consortium to fourth petitioner          | 40,000/-                                       | 40,000/-                                     |
| 4.             | Parental consortium to petitioners 2 and 3      | 80,000/-                                       | 80,000/-                                     |
| 5.             | Loss of estate                                  | 15,000/-                                       | 15,000/-                                     |
| 6.             | Funeral expenses                                | 15,000/-                                       | 15,000/-                                     |
| 7.             | Transportation                                  | 7,500/-                                        | 7,500/-                                      |
|                | <b>Total</b>                                    | <b>17,41,084/-</b>                             | <b>25,60,000/-</b>                           |

13. The compensation awarded by the Tribunal at Rs.17,41,084/- is enhanced to Rs.25,60,000/-. The third 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.8,18,916/- is concerned, the appellants/claimants

**N.ANAND VENKATESH, J.**

gm



Civil Miscellaneous Appeal No.1562 of 2024

will not be entitled for interest for the period of delay of 492 days as was ordered by this Court in C.M.P.No.25069 of 2023 in CMA Sr.No.128667 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 Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, the Civil Miscellaneous Appeal is partly allowed. No costs.

**10.07.2024**

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No  
gm

To  
The Motor Accident Claims Tribunal,  
IV Additional District & Sessions Judge,  
Bhavani, Erode District.

**Civil Miscellaneous Appeal No.1562 of 2024**