



C.M.A.No.3111 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.3111 of 2024

1.Uma
2.Shalini
3.Suresh

... Appellants

Vs.

1.V.Karunanithy
2.National Insurance Co.Ltd.,
No.66, Greaves Road,
Thousand Lights,
Chennai - 600 006.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against judgment and decree dated 09.12.2022 in MCOP. No.2868 of 2020 on the file of Motor Accident Claims Tribunal (Chief Judge, Court of Small Causes), Chennai.

For Appellant : Mr. K.Varadha Kamaraj

For Respondents : Mrs.D.Baskaran for R2
R1-NDW vide order dated 30.10.2024



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JUDGMENT

The first appellant is the wife, the second and third appellants are daughter and son of the deceased Johnson. The claimants not being satisfied with the quantum of compensation awarded by the Tribunal has filed the present appeal.

2. The case of the claimants is that on 28.10.2020, at about 04.30 P.M., while the deceased Johnson was riding a motorcycle bearing registration No.TN22-BS-0426 from Maduravoyal to Puzhal bye-pass road, near GNT Road Junction, the 1st respondent's lorry bearing registration No.TN88 C 4874 came from the same direction in a rash and negligent manner and hit behind the motorcycle. Due to the said accident, the rider of the motorcycle sustained fatal injuries and died on the spot. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation for a sum of Rs.25,00,000/-

3. The Tribunal on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence came to a



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conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the lorry and awarded a sum of Rs.7,83,600/- towards compensation for the death of the deceased Johnson under various heads.

4. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal has filed this appeal seeking for enhancement of compensation.

5. The learned counsel for the appellants submitted that the age of the deceased is 59 years at the time of the accident and he was working as Security in IDC Company, Madhavaram, Chennai and earned a sum of Rs.15,000/- per month. He further submitted that as per the case of ***Smt.Sarala Verma and Others Vs. Delhi Transport Corporation and Another, reported in 2009 (2) TANMAC 1 SC***, the notional income has to be fixed at Rs.15,000/- p.m. Without considering the same, the Tribunal has fixed the notional income at Rs.8,000/- which is very meagre. Therefore, this Court may interfere with the impugned award and modify the same.



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6. Per contra, the learned counsel appearing for the second respondent-Insurance Company contended that the Tribunal, after considering the evidences and witnesses, has awarded compensation, which is just and proper and the same does not need any opportunity. Hence, this Court may dismiss the petition.

7. Heard the learned counsel for appellant/claimant and the learned counsel for 2nd respondent.

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

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

10. 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.

11. In the instant case, the deceased was aged about 59 years at the time of the accident and he was working as a Security in IDC Company, Madhavaram Chennai and was earning a sum of Rs.15,000/- per month. The Tribunal has fixed the notional monthly income at Rs.8,800/- including future prospects since there was no proof regarding the



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avocation or the monthly income of the deceased. The accident had taken place on 28.10.2020 and the notional monthly income fixed by the Tribunal is very much on the lower side. Considering the year in which the accident had taken place and as per the case of *Sarala Verma (stated supra)*, this Court is inclined to fix the notional income at Rs.15,000/- p.m. The age of the deceased was 59 years and therefore, 10% is added towards future prospects. If so, the loss of income /dependency would be:

Monthly Income	:	Rs. 15,000/-
Less: Personal Expenses of the deceased (15000*1/3)	:	Rs. 5,000/-

		Rs. 10,000/-
 Add: Future Prospects 10% of Rs.10,000/-	:	Rs. 1,000/-

		Rs. 11,000/-
 Compensation after multiplier of 9 is applied (Rs.11000/- X 9 X 12)	:	Rs. 11,88,000/-
 Loss of income/dependency	:	 ----- Rs.11,88,000/- -----



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12. The Tribunal has awarded only a sum of Rs.15,000/- , Rs.1,20,000/- and Rs.15,000/- under the head of Loss of Estate, loss of consortium and funeral expenses respectively and the same is in order, which does not warrants interference by this Court.

13. In the light of the above discussion, this Court modifies the compensation in the following manner:-

<i>Heads</i>	<i>Amount awarded by the Tribunal (Rs.)</i>	<i>Modified Award Amount (Rs.)</i>
Loss of dependency	6.33.600	11.88.000
Love and Estate	15,000	15,000
Loss of Consortium Rs.40,000/-(Each) X 3	1,20,000	1,20,000
Funeral Expenses	15,000	15,000
Total	7,83,600	13,38,000

14.The compensation awarded by the Tribunal at Rs.7,83,600/- is enhanced to Rs. 13,38,000/-. The liability fixed by the Tribunal is confirmed. The second respondent is directed to deposit the entire award amount, 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 four weeks from the date of receipt of this judgment.



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The first appellant is entitled to get the award amount of Rs.5,38,000/- and the second and third appellants are entitled to get the award amount of Rs.4,00,000/- each with proportionate interest and costs. Insofar as the enhanced compensation of Rs.13,38,000/- is concerned, the appellants/claimants will not be entitled for interest for the period of delay of 168 days as was ordered by this Court in C.M.P.No.23186 of 2023, dated 30.10.2024. 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.

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

02.12.2024

msv

To,
The Chief Judge,
Motor Accident Claims Tribunal
Court of Small Causes
Chennai.

M.DHANDAPANI.,J



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