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C.M.A.No.3348 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.3348 of 2024

1.Alphonse

2.Phloimal

3.Ananth Antonyraj

4.Jesudoss

5.Shanthi Sahaya Kulanthai Therasu

6.Alexander

... Appellants

Vs.

1.Roberty Kennady

2.National Insurance Co. Ltd.,
Divisional Office, Bharathidasan Salai
Cabtonment, Trichy -1.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to enhance the compensation amount made in Judgment and Decree dated 29.01.2021 made in MCOP.No.1147 of 2016 on the file of the Principal District court, MCOP Tribunal, Perambalur.

For Appellant : Ms.L.Manisha

For Respondents : Mr.S.Arunkumar for R2



C.M.A.No.3348 of 2024

WEB COPY

JUDGMENT

The first appellant is the wife, the appellants 2 & 3 are the children of the deceased Michael. 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 29.07.2016, at about 01.40 AM in the Madurai to Dindigul NH-7 Main Road, opposite to Tafe tractor company, while the deceased Arun Alappar along with other passengers were travelling in Bolero Car bearing Reg. No.TN 45 BB 7612 driven by its driver insured with the second respondent driven by its driver in a rash and negligent manner and dashed on the rear side of a trailer lorry which was parked on the left side of the road. Thereby, the deceased and others caused 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.75,00,000/- for the death of the deceased Arun Alappar.

3. 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



C.M.A.No.3348 of 2024

the part of the driver of the car and awarded Rs.10,35,000/- towards compensation for the death of the deceased 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 deceased was a diocesan priest who could earn minimum of Rs.20,000/- per month. However, the Tribunal awarded lesser compensation and it should be noted that the accident occurred on 29.07.2016. The lower Court considered the income to be only Rs.10,000/- per month. Therefore, this Court may interfere with the impugned award and modify the same.

6. Per contra, the learned counsel appearing for the second respondent- Insurance Company submitted that the deceased was doing service in the church and no income proof was filed. When a person was doing service, he/she is not entitled for getting salary from the Church. In the present case, the deceased was serving as priest in the church, the appellants have not claimed as



dependents. The Tribunal has fixed a sum of Rs.10,000/- as allowance for the life of the deceased, which is just and reasonable and the same cannot be need any interference of this court.

7. Heard the learned counsel for appellants/claimants 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. Admittedly, the deceased was serving as Priest in the Church and therefore, the Tribunal cannot fixed the monthly income for the deceased. The



deceased was getting only allowance for his livelihood. Since the deceased was the Priest, the appellants may not dependents of the deceased. However, the Tribunal has treated the allowance as salary and fixed a sum of Rs.10,000/- as notional monthly income, which is just and reasonable and this Court is not inclined to interfere with in respect of the head "Loss of dependency". However, the Tribunal has not awarded any compensation towards loss of love and affection. Hence, this court is inclined to award a sum of Rs.40,000/- each to the parents and other appellants are not entitled to get compensation towards love and affection. The other heads awarded by the Tribunal is perfectly in order, which does not warrant any interference.

12. 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	10,20,000	10,20,000
Loss of Love and affection		40,000
Funeral Expenses	15,000	15,000
Total	10,35,000	10,75,000



C.M.A.No.3348 of 2024

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13.The compensation awarded by the Tribunal at Rs.10,35,000/- is enhanced to Rs. 10,75,000/-. 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. Insofar as the enhanced compensation, the first appellant is entitled to get a sum of Rs.5,50,000/- with interest and costs. The second appellant/claimant is entitled to get a sum of Rs.5,25,000/- along with interest and costs. The other appellants are not entitled to get any award amount. Insofar as the enhanced compensation is concerned, the deficit court fee, if not paid, shall be paid by the appellants.

14. In the result, the Civil Miscellaneous Appeal is partly allowed.

No costs.

21.12.2024

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To

The Principal District Court, MCOP Tribunal, Perambalur.



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M.DHANDAPANI,J

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