



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.901 of 2024

1.P.Lakshmidevi

2.P.Rajakumari

3.P.Sureshbabu

4.P.Manjula

..Appellants

.VS.

1.K.Punniyakoti

2.United India Insurance Co., Ltd,
Silingi Buildings, 134/40, 42, Greams Road,
Chennai – 600 006.

..Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 06.03.2023 made in MACTOP No.3229 of 2020 on the file of the Motor Accident Claims Tribunal, Chennai, Chief Judge, Court of Small Causes, Chennai.

For Appellant : Ms.A.Subadra

For Respondents : Mr.P.Sankaranarayanan for R2



JUDGMENT

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The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed this appeal challenging the Award passed by the Motor Accident Claims Tribunal, Chennai in MACTOP No.3229 of 2020, dated 06.03.2023.

2.The case of the claimants is that the deceased who is the husband of the 1st claimant and father of claimants 2 to 4 was riding a two wheeler in Vandavasi-Kancheepuram High Road. When the vehicle came near Sengundar Thirumana Mandapam, a vehicle driven by the 1st respondent came in the opposite direction and was driven in a rash and negligent manner. As a result, it rammed against the two wheeler driven by the deceased. The deceased sustained grievous injuries and he succumbed to the injury on 12.03.2020. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for compensation.

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 1st respondent had driven the motor cycle in a rash and negligent manner. However, the Tribunal took into consideration the fact that the deceased was not wearing helmet while riding the two wheeler and therefore, fixed 10% contributory negligence on the



part of the deceased and fixed the liability on the part of the 1st respondent at 90%.

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4. Having rendered the above finding, the Tribunal proceeded to fix the compensation under various heads and the total compensation was fixed at Rs.4,41,000/- in the following manner:

Compensation awarded under the head	Amount (in Rs.)
Towards Loss of Income / Dependency Rs.10000 x 12 x 15 x 1/2	3,00,000
Towards loss of estate	15,000
Towards Loss of Consortium Rs.40000/- (each) x 4	1,60,000
Towards Funeral Expenses	15,000
Total Compensation Payable	4,90,000
Less 10% for not wearing helmet	49,000
Compensation Payable	4,41,000

5. The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

6. The claimants not being satisfied with the quantum of compensation fixed by the Tribunal have filed the present appeal before this Court.

7. Heard Ms.A.Subadra, learned counsel appearing on behalf of the appellants



and Mr.P.Sankaranarayanan, learned counsel appearing on behalf of the 2nd respondent.

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

9.In the considered view of this Court, the deceased at the time of his demise was aged about 69 years. If at all, there was any claimant, it is only the first claimant who is the wife was dependent on the deceased. The other three claimants are married and living elsewhere. The deceased is said to have been working in a private company which is evident from Ex.P6 and Ex.P7. The claimants contended the deceased was earning a sum of Rs.11,392/- per month as salary. The Tribunal has fixed the monthly income at Rs.10,000/- per month. The Tribunal has also deducted half towards the personal expenditure of the deceased. Considering the fact that only wife was the dependent. This Court holds that all these findings are reasonable and will not require the interference of this Court.

10.The only area where this Court is inclined to interfere is with respect to fixing 10% as contributory negligence on the part of the deceased. The Tribunal came to a categorical conclusion that the accident had taken place only due to the rash and negligent driving of the two wheeler by the 1st respondent. Having rendered such



a finding just because the deceased was not wearing helmet, that cannot be a contributing factor for the accident. Hence, this Court is inclined to set aside that portion of the Award fixing 10% towards contributory negligence against the deceased. The other findings of the Tribunal regarding the fixation of compensation is sustained.

11. In the light of the above discussion, the Insurance Company is directed to pay a total compensation of Rs.4,90,000/- with 7.5% interest per annum.

12. In the light of the above discussion, the compensation awarded by the tribunal is modified as follows:

Compensation awarded under the head	Amount (in Rs.)
Towards Loss of Income / Dependency Rs.10000 x 12 x 15 x 1/2	3,00,000
Towards loss of estate	15,000
Towards Loss of Consortium Rs.40000/- (each) x 4	1,60,000
Towards Funeral Expenses	15,000
Total	4,90,000

13. The compensation awarded by the tribunal at Rs.4,41,000/- is enhanced to

Rs.4,90,000/-. The second respondent insurance company is directed to deposit the



enhanced compensation of Rs.4,90,000/-, 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

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N. ANAND VENKATESH., J

SSR

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a period of four 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.

14.This Civil Miscellaneous Appeal is allowed in the above terms. No costs.

12.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
ssr

To

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

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