



Civil Miscellaneous Appeal No.1303 of 2024

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

**DATED : 14.06.2024**

**CORAM**

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

**Civil Miscellaneous Appeal No.1303 of 2024**

1.Vennila

W/o.Late Saravanan

2.Minor Sivanya

D/o.Late Saravanan

3.Minor Sathiriyani

S/o.Late Saravanan

4.Minor Sivanesh

S/o.Late Saravanan

(minors 2 to 4 are represented by  
their natural guardian first appellant)

5.Valarmathi

W/o.Murugan

6.Murugan

S/o.Appapadaiyachi

... Appellants

**Vs.**

1.Balaraman

S/o.Desan

2.M/s.IFFCO-TOKIO General Insurance

Company Limited,

No.128, Habibulla Road,

T.Nagar, Chennai - 17.

... Respondents



Civil Miscellaneous Appeal No.1303 of 2024

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.27 of 2022 on the file of Motor Accident Claims Tribunal/Principal District Judge, Ariyalur, dated 20.04.2023.

For Appellants : Mr.T.Gobinath

For Respondents : Mr.J.Michael Visuvasam [R2]

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### **JUDGMENT**

The claimants, who are the wife, daughter, sons and parents of the deceased Saravanan, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal/Principal District Judge, Ariyalur, in M.C.O.P.No.27 of 2022, dated 20.04.2023, have filed this appeal.

2. The case of the claimants is that the deceased Saravanan on 06.01.2022 was travelling in a car at Vandavasi - Kancheepuram main road and at about 02.00 a.m., when the car was coming near Manampathi Koot Road, the offending vehicle owned by the first respondent was driven in a rash and negligent manner and it dashed on the car as a result of which the deceased sustained grievous injuries and he died on the



spot. A First Information Report came to be registered in Crime No.4 of 2022 against the driver of the offending vehicle. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking compensation.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a categorical conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle. After having come to such a conclusion, the Tribunal fixed the total compensation at Rs.16,83,500/- under various heads as follows:

| <i><b>Sl. No.</b></i> | <i><b>Compensation awarded under the head</b></i> | <i><b>Amount (in Rs.)</b></i> |
|-----------------------|---------------------------------------------------|-------------------------------|
| 1.                    | Loss of income                                    | 16,06,500/-                   |
| 2.                    | Loss of love and affection                        | 16,500/-                      |
| 3.                    | Loss of consortium                                | 44,000/-                      |
| 4.                    | Funeral expenses                                  | 16,500/-                      |
|                       | <b>Total</b>                                      | <b>16,83,500/-</b>            |

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



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4. The appellants/claimants, not being satisfied with the quantum of compensation awarded by the Tribunal, have filed the present appeal seeking for enhancement of compensation.

5. Heard Mr.T.Gobinath, learned counsel for appellants/claimants and Mr.J.Michael Visuvasam, learned counsel for second respondent.

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

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

8. The first ground that was urged before this Court was that the deceased was working as a driver and he was earning a sum of Rs.30,000/- p.m. However, the Tribunal had fixed the monthly income at Rs.7,500/-, which is on the lower side. There was no evidence regarding the avocation and the monthly income earned by the deceased. However,



Civil Miscellaneous Appeal No.1303 of 2024

considering the fact that the accident had taken place in the year 2022 and the age of the deceased (27 years), this Court is inclined to fix the notional monthly income at Rs.17,000/- p.m. and add 40% towards future prospects. Thus, the compensation under the head 'loss of income' is calculated as follows:

|                                  |          |                       |
|----------------------------------|----------|-----------------------|
| Monthly Income                   | :        | Rs. 17,000/-          |
| Add: Future Prospects            | :        | Rs. 6,800/-           |
| 40% of Rs.17,000/-               |          | -----                 |
|                                  |          | Rs. 23,800/-          |
| Annual Income                    | :        | Rs. 2,85,600/-        |
| (23,800 * 12)                    |          |                       |
| Less : Personal expenses         |          |                       |
| Rs.2,85,600/- * 1/4              | :        | Rs. 71,400/-          |
|                                  |          | -----                 |
|                                  |          | Rs. 2,14,200/-        |
| Multiplier                       | :        | x 17                  |
|                                  |          | -----                 |
| <b>Loss of income/dependency</b> | <b>:</b> | <b>Rs.36,41,400/-</b> |
|                                  |          | -----                 |

9. The Tribunal has granted a sum of Rs.44,000/- towards consortium and a sum of Rs.16,500/- towards loss of love and affection. This Court is inclined to consolidate both the heads and bring it under the head 'loss of love and affection' and fix a total compensation of Rs.2,40,000/- (40000 \*6).



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10. The Tribunal has not awarded any compensation under the head 'loss of estate' and a sum of Rs.15,000/- is awarded under this head. Further, the sum of Rs.16,500/- awarded towards funeral expenses is reduced to Rs.15,000/-.

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

| <i><b>Sl. No.</b></i> | <i><b>Compensation awarded under the head</b></i> | <i><b>Amount by the Tribunal (in Rs.)</b></i> | <i><b>Amount awarded by this Court (in Rs.)</b></i> |
|-----------------------|---------------------------------------------------|-----------------------------------------------|-----------------------------------------------------|
| 1.                    | Loss of income                                    | 16,06,500/-                                   | 36,41,400/-                                         |
| 2.                    | Loss of love and affection                        | 16,500/-                                      | 2,40,000/-                                          |
| 3.                    | Loss of consortium                                | 44,000/-                                      | -                                                   |
| 4.                    | Funeral expenses                                  | 16,500/-                                      | 15,000/-                                            |
| 5.                    | Loss of estate                                    | -                                             | 15,000/-                                            |
|                       | <b>Total</b>                                      | <b>16,83,500/-</b>                            | <b>39,11,400/-</b>                                  |

12. The compensation awarded by the Tribunal at Rs.16,83,500/- is enhanced to Rs.39,11,400/-. The second respondent insurance company is directed to deposit the enhanced compensation, less the amount already deposited, together with interest at 7.5% p.a. from the date of



Civil Miscellaneous Appeal No.1303 of 2024

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 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.

**14.06.2024**

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

The Motor Accident Claims Tribunal,  
Principal District Judge, Ariyalur.



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Civil Miscellaneous Appeal No.1303 of 2024

**N.ANAND VENKATESH, J.**

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**Civil Miscellaneous Appeal No.1303 of 2024**

**14.06.2024**