



C.M.A.No.687 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.No.687 of 2024

1.K.Malathi
2.Minor K.Vaishnavi
3.Minor K.Sakthivel
4.Latchumi
[** Minor appellants rep by mother/1st appellant]

...Appellant

Vs

1.L.Rajendran

2.Soorya Fuels,
No.16, Samundi Nagar, 2nd Cross,
Nelliyampalayam Main Road,
Thindal Post,
Erode 638 009.

3.The Divisional Manager,
National Insurance Company Ltd.,
No.165, Nethaji Road, Manjakuppam,
Cuddalore.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal and enhance the compensation in



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MCOP.No.1114 of 2019 dated 03.01.2023 on the file of the Motor Accidents Claims Tribunal/Principal District Judge, Cuddalore.

For Appellant : Ms.Ramya V.Rao

For Respondent : Ms.N.B.Sureka for R2

JUDGMENT

This civil miscellaneous appeal has been filed challenging the judgment and decree dated 03.01.2023 in MCOP.No.1114 of 2019.

2. The learned counsel for the claimant would submit that on 14.02.2019, when one Karthi was riding a Motorcycle bearing Registration No.TN-91-4174 at Seerkazhi-Chidambaram Main Road, a Goods Vehicle bearing Registration No.TN-33-BJ-7060 came in a rash and negligent manner and dashed against the said Motorcycle, due to which the said Karthi was died on the spot. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	20,16,000
2	Loss of Love and Affection	40,000
3	Funeral Expenses	15,000



<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
4	Loss of Estate	15,000
5	Loss of Consortium	40,000
	Total	21,26,000

3. Further, she would submit that at the time of accident the deceased, who was aged about 35 years, was the only breadwinner of the family and he was earning a sum of Rs.25,000/- per month. However, without considering the same, the Tribunal fixed the notional income of the deceased as a sum of Rs.10,000/-, which is too low. Hence, she would submit that a sum of Rs.14,000/- may be fixed as notional income for awarding compensation. In this regard, she had also produced a calculation memo before this Court.

4. In reply, the learned counsel for the respondent would submit that the Tribunal had wrongly awarded the interest at the rate of 8% instead of 7.5% per annum. Hence, she requests this Court to re-determine the same. Further as far as the notional income fixed by the Tribunal is concerned, she would submit that the amount fixed by the Tribunal is just and reasonable and thus, she requests this Court to confirm the same.



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5. Heard the learned counsel for the appellant and the respondents and also perused the documents available on records.

6. In the present case, there is no dispute with regard to the occurrence of accident and fixation of negligence and fastening of liability. The only issue that has to be decided in this appeal is with regard to the quantum of compensation awarded by the Tribunal, particularly, the fixation of notional income of the deceased. The accident was occurred in the year 2019. At the time of accident the deceased was aged about 37 years and he was the only breadwinner of the family. Further, as per the claimants, he was working as a driver and earning a sum of Rs.25,000/- per month.

7. Hence, by following the judgment rendered by the Hon'ble Apex Court in *Syed Sadiq and others vs. Divisional Manager, United India* reported in *MANU/SC/0033/2014* and also by applying the cost inflation index, this Court feels that it would be appropriate to fix a sum of Rs.15,000/- as notional income of the deceased. However, in the present case, the claimants had only pleaded



for a sum of Rs.14,000/- as notional income of the deceased. Hence, this Court is inclined to fix a sum of Rs.14,000/- as notional income of the deceased.

Therefore, by applying 15 as multiplier, by adding 40% towards future prospects and by deducting 1/4th towards the personal expenses of the deceased, the loss of income would be calculated as follows:

$$\begin{aligned} & \text{Rs.14,000/- (notional income) + Rs.5,600/- (40\% future prospects)} \\ & * 12 \text{ (months)} * 15 \text{ (multiplier)} * (3/4) \text{ (deduction towards personal expenses)} \\ & = \text{Rs.26,46,000/-} \end{aligned}$$

8. Further, it appears that the Tribunal had awarded only a sum of Rs.40,000/- towards loss of Love and Affection for the claimants 2 to 4, which is on the lower side. Hence, the same stands enhanced to a sum of Rs.1,20,000/- (Rs.40,000/- each).

9. Accordingly, the compensation awarded by the Tribunal is modified as follows:

<i>S.No.</i>	<i>Heads</i>	<i>Compensation awarded by Tribunal (Rs.)</i>	<i>Compensation awarded by this Court (Rs.)</i>
1	Loss of Income	20,16,000	26,46,000



S.No.	Heads	Compensation awarded by Tribunal (Rs.)	Compensation awarded by this Court (Rs.)
2	Loss of Love and Affection	40,000	1,20,000
3	Funeral Expenses	15,000	15,000
4	Loss of Estate	15,000	15,000
5	Loss of Consortium	40,000	40,000
	Total	21,26,000	28,36,000

10. Therefore, the amount awarded by the Tribunal is modified as a sum of Rs.28,36,000/-. Accordingly, the award amount stands increased from a sum of Rs.21,26,000/- to Rs.28,36,000/-. It appears that the Tribunal had wrongly awarded the interest at the rate of 8% per annum. Hence, this Court is inclined to award the interest at the rate of 7.5% per annum. In all other aspects, the award of the Tribunal stands confirmed. It is also made clear that the compensation will be awarded to the claimants in the following proportions:

- i) Mother of the deceased/4th appellant – Rs.3,36,000/-
- ii) Wife of the deceased/1st appellant – Rs.11,00,000/-
- iii) Minor children of the deceased/appellants 2 & 3 – Rs.7,00,000/- each

11. In the result, this Civil Miscellaneous Appeal is partly allowed and



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the 3rd respondent is directed to deposit a sum of Rs.28,36,000/- along with interest at the rate of 7.5% per annum and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.No.1114 of 2019 on the file of the Motor Accidents Claims Tribunal/Principal District Judge, Cuddalore. Further, as per the order dated 16.02.2024, the 2nd respondent shall not pay any interest for the delayed period of 184 days in filing the present appeal. Upon such deposit, the shares of the minor appellants 2 and 3 are directed to be deposited in any one of the Nationalised Bank till they attain majority and the 1st appellant being the mother of the minor is permitted to withdraw the accrued interest once in three months for the welfare of the minors. Further, the Tribunal is directed to transfer the share of the 1st and 4th appellants to their respective bank accounts, as per the proportion determined by this Court, by way of RTGS, within a period of three weeks from the date of receipt of the Bank details from the said appellants. No costs.

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Index: Yes/No
Internet: Yes/No



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Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

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